

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT

October 20, 2011 Planning Commission Hearing
Agenda Item 6

SUBJECT: Pizzeria Mozza - (PA2011-139)
800 West Coast Highway
▪ Minor Use Permit No. UP2011-023

APPLICANT: Occhio Rosso, LLC

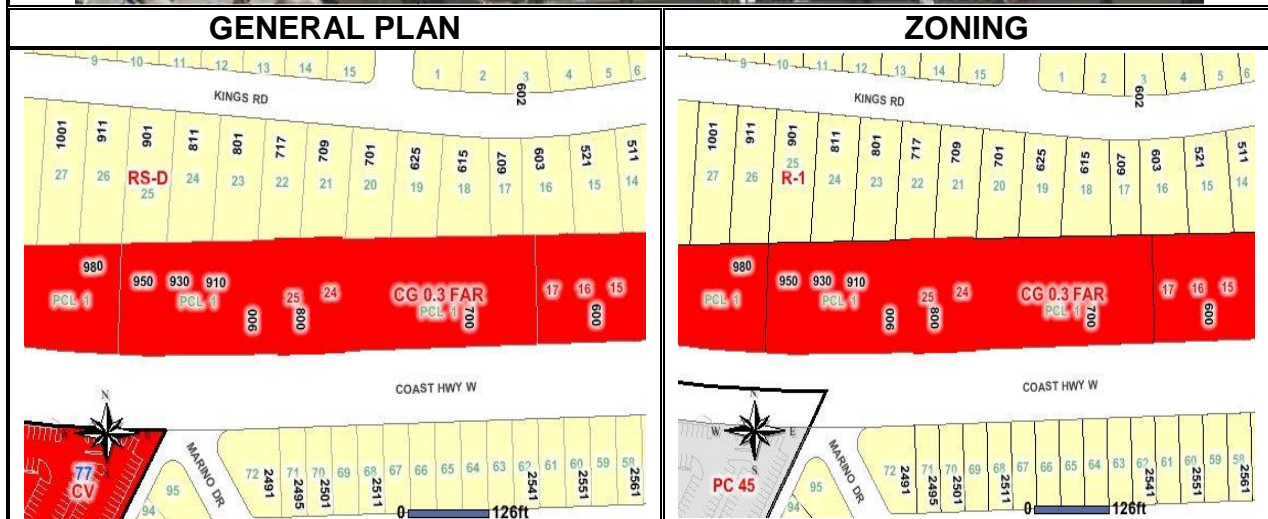
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PROJECT SUMMARY

An appeal of the Zoning Administrator's approval of Minor Use Permit No. UP2011-023 to amend existing Use Permit 3542 which allowed an upgrade to the existing Type 41 On-Sale Beer and Wine ABC license to a Type 47 On-Sale General (Beer, Wine & Distilled Spirits) ABC License and reduced the allowed hours of operation for the interior of the restaurant from 12:00 midnight, daily to 11:00 p.m., daily. Allowed hours of the outdoor dining area would remain 10:00 p.m., daily. No other changes to the existing restaurant operations are proposed or requested.

RECOMMENDATION

1. Conduct a de novo public hearing; and
2. Uphold or reverse the decision of the Zoning Administrator and adopt Resolution No. __ (Attachment No. PC 1 or PC 2) for Minor Use Permit No. UP2011-023.



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	General Commercial (CG)	Commercial General (CG)	Restaurant
NORTH	Single-Unit Residential Detached (RS-D)	Single-Unit Residential (R-1)	Single-unit residential dwellings
SOUTH	(RS-D)	(R-1)	Single-unit residential dwellings
EAST	(CG)	(CG)	McDonald's Fast Food establishment
WEST	(CG)	(CG)	Shopping Center (one restaurant and retail)

INTRODUCTION

Project Setting

The existing restaurant is located between the West Marine store and the McDonald's parking lot along West Coast Highway. Behind and up slope of the project site are single-family dwellings and across West Coast Highway is the Bayshores single-family neighborhood. The restaurant currently operates under Use Permit 3542 and Outdoor Dining Permit No. OD2010-003.

Background

A restaurant has operated at this location since 1963. Use Permit 3542, approved in 1994, granted a change in operational characteristics by allowing beer and wine service and the use of tandem and valet parking (Attachment No. PC 6). In May, 2010, a Staff Approval of substantial conformance with the Use Permit authorized an interior and exterior remodel of the building, a kitchen and service area addition, elimination of an existing enclosed patio to accommodate for the future widening of West Coast Highway, a 9-foot retaining wall to provide additional area for improved on-site parking and vehicle circulation, construction of a covered trash and recycling storage area, alteration of existing vehicular circulation and parking areas and the maintenance of full valet parking service (Attachment No. PC 7). A valet parking plan was included as a part of the review and was approved by the City Traffic Engineer.

In August, 2010, the Planning Director approved an outdoor dining permit, OD2010-003, for a 202-square-foot accessory outdoor dining area for the restaurant (Attachment No. PC 8). The approval required the patio to close by 10:00 p.m., daily.

Zoning Administrator Hearing and Action

On September 14, 2011, the Zoning Administrator conducted a public hearing, reviewed the applicant's request, and received testimony from the applicant and members of the public.

Comment letters received prior to the hearing and testimony at the hearing expressed concern regarding patron parking, reflective glare from the roof, and glare from site lighting (Attachment No. PC 5). Condition No. 7 was added to address the patron parking concern. Condition No. 5 affirmed implementation of Section 20.30.070 of the Zoning Code regarding lighting. Additionally, standard Condition Nos. 8 through 12 were in place to address parking, which were included to address valet and on-site parking.

The Zoning Administrator determined that there were facts in support of the required findings and conditionally approved the application (Attachment No. PC 3). This approval would supersede the previous use permit and outdoor dining permit approvals.

Staff had previously been working with the neighbor affected by the roof glare and plans have been approved that include materials to mitigate the glare. The restaurant currently has been issued a temporary occupancy permit from the Building Division. Issuance of the final occupancy is contingent upon resolution of the roof glare issue.

On September 28, 2011, Planning Commissioner Hawkins appealed the Zoning Administrator's action.

DISCUSSION

Analysis

REQUIRED FINDINGS

Section 20.48.030 (Alcohol Sales) and 20.52.020.F (Use Permits) of the Newport Beach Municipal Code require certain findings to be made in order to approve the Minor Use Permit. The Planning Commission must make the following findings to grant approval of the Minor Use Permit:

1. The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code).
2. The use is consistent with the General Plan and any applicable specific plan.
3. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.
4. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.
5. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and
6. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

The Zoning Administrator believed that the proposed project meets the legislative intent of the Zoning Code and that findings for approval could be made, and facts in support of the required findings are included in the draft resolution upholding the Zoning Administrator's decision (Attachment No. PC 1).

Appeal

Commissioner Hawkins' appeal letter provides five points regarding the reasons for appeal (Attachment No. PC 4). The numbered points below correspond to the handwritten numbers in the letter. The page number of the letter where the points are made is also indicated.

1. (Review Authority p1) The restaurant is located on a property that has a Commercial General (CG) Zoning District designation. Pursuant to the use tables in Part 2 of the Zoning Code, restaurants located in the CG District that serve alcohol, with no late hours (late hours is defined by the Zoning Code as meaning establishments that provide service past 11:00 p.m. any day of the week) are permitted with the approval of a minor use permit by the Zoning Administrator.
2. (Finding E p2) Use Permit 3542, which is currently exercised by the restaurant, includes a condition (Attachment No. PC 6) which allows a 12:00 midnight, closing hour. The minor use permit request includes amending that condition to allow an 11:00 p.m. closing hour to ensure the earlier closing hour regardless whether the restaurant had previously exercised the 12:00 midnight closing hour. Facts were found to support Finding E and conditions were included in the Zoning Administrators approval to ensure compatibility with the adjacent residential uses.
3. (Finding F p2) The Zoning Administrator determined that the facts presented in the action letter supported making the physical site suitability and provision of public and emergency vehicle access finding. Making this finding center on physical site suitability. Compatibility with adjacent properties and uses is considered in Finding E and G and facts were found to support these findings. There is no history of complaints from adjacent residences in regard to this use.
4. (Fact F-2 p2) In regard to the valet plan, Condition No. 18 of Use Permit 3542 (Attachment No. PC 6) required the use of the valet parking during all hours of operation and that a valet plan be approved by the City Traffic Engineer. This condition was carried over in the Staff Approval. This approved valet plan was included on the project plans for this request and appears on the plans provided for Planning Commission Review (See Attachment No. PC 9). However, the Zoning Administrator approval included conditions of approval requiring more detailed plans and additional information (See Condition Nos. 6 through 12 in Attachment No. PC 3) and that a new valet plan be reviewed and approved by the Community Development Director and City Traffic Engineer prior to implementation of the Minor Use Permit. If the Planning Commission is concerned about on-site parking, circulation, and/or the valet plan a Condition can be added to require Planning Commission review of those issues 6 months from implementation of the Minor Use Permit.
5. (Finding G, Fact G-1 pp 2 and 3) The recommended Police Department conditions related to the sale of alcohol were included in the Zoning Administrator approval.

Standard and project specific conditions of approval regarding alcohol sales, limiting hours of operation, noise, parking, light spillage, trash, and loitering were included in the Zoning Administrator approval to address compatibility with surrounding land uses. The outdoor dining closing hour remains limited to 10:00 p.m. which is consistent with recent outdoor dining area approvals throughout the City. The outdoor dining area is adjacent West Coast Highway on the front of the property, and does not face the residential dwellings behind the property.

Alternatives

1. Should the Planning Commission find there are facts to support the findings required to grant approval of the Minor Use Permit, as proposed or revised, the Planning Commission should adopt Resolution No. ____ (Attachment No. PC 1), upholding the decision of the Zoning Administrator, and approving Minor Use Permit No. UP2011-023.
2. Should the Planning Commission find the facts do not support the findings required to grant approval of the Minor Use Permit, the Planning Commission should adopt Resolution No. ____ (Attachment No. PC 2), reversing the decision of the Zoning Administrator, and denying Minor Use Permit No. UP2011-023.

Environmental Review

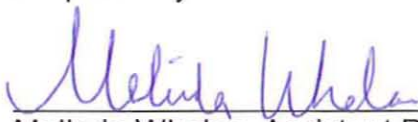
If upheld and approved, then this project is exempt from CEQA, pursuant to Section 15301 (Class 1 – Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, which exempts minor alterations to existing facilities that involve negligible expansion of the use, including the addition of a new residential unit.

If reversed and denied, then the project is not subject to the California Environmental Quality Act ("CEQA") review, pursuant to Section 15270 of the CEQA Guidelines.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to all property owners within 300 feet of the property (excluding intervening rights-of-way), and posted at the project site a minimum of 10 days in advance of this meeting consistent with the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:


Melinda Whelan, Assistant Planner

Submitted by:


Gregg Ramirez, Acting Planning Manager

ATTACHMENTS

PC 1	Draft Resolution - Uphold
PC 2	Draft Resolution - Reverse
PC 3	Zoning Administrator Action Letter
PC 4	Appeal Letter
PC 5	Correspondence
PC 6	Use Permit 3542
PC 7	Staff Approval
PC 8	Planning Director's Approval - Outdoor Dining Permit
PC 9	Plans

Attachment No. PC 1

Draft Resolution - Uphold

RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH UPHOLDING THE DECISION OF THE ZONING ADMINISTRATOR AND APPROVING MINOR USE PERMIT NO. UP2011-023 TO AMEND EXISTING USE PERMIT 3542 TO UPGRADE THE EXISTING TYPE 41 ON-SALE BEER AND WINE ABC LICENSE TO A TYPE 47 ON-SALE GENERAL (BEER, WINE & DISTILLED SPIRITS) ABC AND TO REDUCE THE ALLOWED HOURS OF OPERATION FOR THE INTERIOR OF THE RESTAURANT FROM 12:00 MIDNIGHT, DAILY TO 11:00 P.M., DAILY LOCATED AT 800 WEST COAST HIGHWAY (PA2011-139)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Occhio Rosso, LLC, with respect to property located at 800 W. Coast Highway, and legally described as Lots 24 and 25, Tract No. 1210, requesting approval of a minor use permit.
2. The applicant proposes an amendment existing Use Permit 3542 to upgrade the existing Type 41 On-Sale Beer and Wine ABC license to a Type 47 On-Sale General (Beer, Wine & Distilled Spirits) ABC License and to change the allowed hours of operation for the interior of the restaurant from 12:00 midnight, daily to 11:00 p.m., daily.
3. The subject property is located within the General Commercial (CG) Zoning District. The General Plan Land Use Element designation is General Commercial (GC).
4. A public hearing was held on October 20, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place, and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act, pursuant to Section 15301 (Class 1 – Existing Facilities).
2. The Class 1 exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The proposed project involves the change of the type alcohol beverage license and the change of hours of an existing restaurant with no construction proposed.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

- A. *The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code).*

Facts in Support of Finding

- A-1. The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code) is maintained and that a healthy environment for residents and businesses is preserved. The service of beer, wine and distilled spirits is intended for the convenience of customers dining at the restaurant. Operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts.
- A-2. The hours of operation will minimize the potential effects of noise on neighboring businesses and residences to preserve the health and safety for visitors and other businesses in the neighborhood.

In accordance with Section 20.52.020.F of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

- B. *The use is consistent with the General Plan and any applicable specific plan;*

Facts in Support of Finding

- B-1. The General Plan land use designation for this site is GC (General Commercial). The GC provides provide for a wide variety of commercial activities oriented primarily to serve citywide or regional needs. The existing restaurant, including the proposed Type 47 ABC license and reduced hours of operation, is consistent with this land use category.
- B-2. Eating and drinking establishments are common in the vicinity and are frequented by the surrounding businesses, travelers that visit the City and residents of the City. The establishment is compatible with the land uses permitted within the surrounding neighborhood.
- B-3. The subject property is not part of a specific plan area.

Finding

- C. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;*

Facts in Support of Finding

- C-1. The site is located in the Commercial General (CG) Zoning District. The restaurant, including the proposed Type 47 ABC license and reduced hours of operation, is allowed subject to the approval of a minor use permit in the CG Zoning District.
- C-2 The restaurant facility adds to the high aesthetic enhancement to the site benefiting the area and is consistent with the Mariner's Mile Strategic Vision and Design Framework.

Finding

- D. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*

Facts in Support of Finding

- D-1. The operation of the interior of the restaurant was previously restricted to the closing hour of 12:00 midnight, daily by Condition No. 5 of Use Permit 3542. Reducing the closing hour to 11:00 p.m., daily will create greater compatibility with the surrounding uses as the hour is not considered late. The earlier closing hour is compatible with surrounding uses which are comprised of commercial businesses, restaurants, and residential.
- D-2. A restaurant has operated at this location since 1963 and Use Permit 3542 was approved in 1994 to grant a change in operational characteristics of the existing restaurant use with beer and wine service. The use has not proven detrimental to the area. This demonstrates the location's capability of operating as a compatible use with other land uses in the vicinity.
- D-3. The applicant is required to control trash and litter around the subject property.
- D-4. The operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts. The project has been conditioned to ensure the welfare of the surrounding community so that the business remains a restaurant and does not become a bar or tavern. The project has been conditioned so that no dancing or live entertainment will be permitted on the premises.
- D-5. The applicant has installed a grease interceptor and obtained Health Department approval. The establishment will comply with the California Building Code and

requirements of the Alcoholic Beverage Control Department to ensure the safety and welfare of customers and employees within the establishment.

Finding

- E. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*

Facts in Support of Finding

- E-1. The project site was issued a Staff Approval of substantial conformance with Use Permit 3542 to authorize changes in operational characteristics including interior and exterior remodel of the building, a kitchen and service area addition, elimination of an existing enclosed patio to accommodate for the future widening of West Coast Highway, a 9-foot retaining wall to provide additional area for improved on-site parking and vehicle circulation, construction of a covered trash and recycling storage area, and alteration of existing vehicular circulation and parking areas and the maintenance of full valet parking service. Therefore, the building structure and site is designed and developed for an eating and drinking establishment. The design, size, location, and operating characteristics of the use are compatible with the surrounding neighborhood.
- E-2 The full valet parking service plan will be updated and required to be re-approved by the City Traffic Engineer and Community Development Director to update operational details to improve the use and circulation of the parking areas.
- E-3 Adequate public and emergency vehicle access, public services, and utilities are provided within the existing tenant space.

Finding

- F. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

- F-1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.

- F-2. The food service, eating and drinking establishment will continue to serve the surrounding commercial and residential community locally and regionally. The proposed establishment provides dining services as a public convenience to the surrounding neighborhood. The continued service of alcohol will provide an economic opportunity for the property owner to maintain a successful business at this location in a way which best serves the quality of life for the surrounding community.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Minor Use Permit No. UP2011-023, upholding the decision of the Zoning Administrator, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 20th DAY OF OCTOBER, 2011.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____,
Chairman

BY: _____,
Secretary

EXHIBIT "A"**CONDITIONS OF APPROVAL**

The following conditions of approval shall supersede the conditions of approval granted for Use Permit 3542 on October 20, 1994, as reviewed and modified by the Planning Director on May 14, 2010 and the accessory outdoor dining permit OD2010-003.

1. The development shall be in substantial conformance with the approved site plan, floor plan(s) and building elevations per the plans dated February 23, 2011. (Except as modified by applicable conditions of approval.)
2. Any change in operational characteristics, hours of operation, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new Use Permit.
3. The applicant shall provide a minimum of one (1) on-site parking space for each three (3) seats within the restaurant dining and waiting areas or a total of 25 parking spaces.
4. The hours of operation for the interior of the restaurant facility shall be limited to the hours between 11:00 a.m. and 11:00 p.m., daily. The outdoor dining area shall be subject to the hours of operation of 11:00 a.m. to 10:00 p.m., daily. All activities within the outdoor dining area, including cleanup activities, shall cease at the specified closing hour of the outdoor dining area. Increases in the hours of operation for the outdoor dining area shall require approval of an amendment to this application.
5. The lighting in the parking area and restaurant facility shall be shielded in such a manner so as to eliminate light and glare spillage on surrounding uses and properties and West Coast Highway consistent with Section 20.30.070 of the Newport Beach Municipal Code.
6. All employees shall park their vehicles on-site, or at an off-site location approved by the Community Development Director.
7. Prior to exercising this Minor Use Permit, a revised valet parking and operations plan shall be submitted for review and approval by the Community Development Director. The valet and operations plan shall include a security component with provisions to address unlawful patron parking on adjacent properties. The circulation and parking layout on the revised valet parking plan shall be reviewed and approved by the City Traffic Engineer. Should problems arise in the future, the Community Development Director may require the preparation of a new valet parking and operations plan.
8. The valet drop off and pick up location shall be sufficiently set back from the public right of way to ensure that staging/queuing vehicles will not impact the public right-of-way.

9. The valet operation shall be sufficiently staffed to ensure that the valet operation does not impact the public right of way.
10. The valet operation shall comply with the most current California Vehicle Code (California Vehicle Code).
11. The valet operation shall incorporate the "move one vehicle to get one vehicle" policy.
12. The valet parking service shall be utilized during all hours that the restaurant facility is open to the public.
13. All signs shall conform to the requirements of Chapter 20.67 of the Newport Beach Municipal Code.
14. No temporary "sandwich" signs, banners, balloons or similar temporary signs or attention attracting devices shall be permitted, either on-site or off-site, to advertise the food establishment, unless specifically permitted in accordance with the Sign Ordinance of the Newport Beach Municipal Code, Chapter 20.42.
15. Temporary signs shall be prohibited in the public right-of-way unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.
16. The landscape planter no less than 4 feet in width shall be maintained in accordance with the Mariner's Mile Strategic Plan and Design Framework and approved site plan.
17. Future changes to the exterior design of the building site shall require review by the Community Development Director for consistency with the Mariner's Mile Strategic Vision Design Framework.
18. The applicant shall maintain the landscape and irrigation plan with drought tolerant plantings and water efficient irrigation practices, approved by the Planning Division and the Municipal Operators. All planting areas shall be maintained with a permanent underground automatic sprinkler irrigation system of a design suitable for the type and arrangement of the plant materials selected.
19. The irrigation system shall be adjustable based upon either a signal from a satellite or an on-site moisture-sensor. Planting areas adjacent to vehicular activity shall be protected by a continuous concrete curb or similar permanent barrier. Landscaping shall be located so as not to impede vehicular sight distance to the satisfaction of the Traffic Engineer. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
20. All improvements shall be constructed as required by Ordinance and the Public Works Department.

21. The applicant is required to obtain all applicable permits from the City Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. All construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required.
22. This Use Permit may be modified or revoked by the Zoning Administrator, Planning Commission or the City Council should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
23. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Community Development Director, and may require an amendment to this use permit.
24. Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge, including minimum drink orders or sale of drinks is prohibited.
25. All doors and windows of the entire facility shall remain closed at all times except for the ingress and egress of patrons and employees.
26. All entrances and exits to the building shall remain free of obstructions and available for ingress and egress at all times.
27. The operator shall not allow occupancy of the building to exceed the occupancy limits established by the Building Division or Fire Department. Strict adherence to maximum occupancy limits is required.
28. The use of private (enclosed) "VIP" rooms or any other temporary or permanent enclosures separate from public areas are prohibited.
29. The outdoor dining area shall be used in conjunction with the related eating and drinking establishment and shall be limited to 202 square feet in area (seventeen (17%) percent of the total net public area of 1,182 square feet). Seating within the existing eating and drinking establishment, including the outdoor dining area, shall be limited to a maximum of 75 seats, unless an amendment to this Minor Use Permit is approved.
30. At such a time that the City widens West Coast Highway in this area, the applicant shall reconfigure the main entry doorway to the eating and drinking establishment to eliminate the door swing within the future public right-of-way. Alterations shall be made at the sole cost and expense of the applicant.
31. The boundary of the outdoor dining area shall be marked to define the maximum 202 square foot area on the pavement or through the use of fences, walls, or similar

barriers. Fences, walls or similar barriers shall serve only to define the outdoor dining area and not constitute a permanent all weather enclosure.

32. The installation of roof coverings shall not have the effect of creating a permanent enclosure. The use of umbrellas or a retractable canvas cover for shade purposes shall be permitted. The use of any other type of overhead covering, including solid ridged roof coverings, shall be subject to review and approval by the Community Development Director and may require an amendment to this permit.
33. The outdoor dining area shall be designed to meet exiting and fire protection requirements as specified by the California Building Code and shall be subject to review and approval by the Building Division and the Fire Department.
34. The project shall comply with the most recent, City-adopted version of the California Building Code and California Plumbing Code.
35. Approval is required by the Orange County Health Department prior to the final of building permits.
36. All doors and windows of the entire facility, including those doors and/or windows leading to the outdoor dining area, shall remain closed at all times except for the ingress and egress of patrons and employees.
37. No amplified music is permitted in the outdoor dining area.
38. The operator of the eating and drinking establishment shall be responsible for the control of noise generated by the patrons of the subject facility. The use of outside loudspeakers, paging system, or sound system shall be prohibited in the outdoor dining area or outside of the building. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code. Chapter 10.26 provides, in part, that the noise should shall be limited to no more than depicted below for the specified time periods:

	Between the hours of 7:00 a.m. and 10:00 p.m.		Between the hours of 10:00 p.m. and 7:00 a.m.	
	<u>interior</u>	<u>exterior</u>	<u>interior</u>	<u>exterior</u>
Measured at the property line of commercially zoned property:	N/A	65 dBA	N/A	60 dBA
Measured at the property line of residentially zoned property:	N/A	60 dBA	N/A	50 dBA
Residential property:	45 dBA	55 dBA	40 dBA	50 dBA

39. The applicant shall retain a qualified engineer specializing in noise/acoustics to monitor the sound generated by the outdoor dining activity to ensure compliance with these conditions, if required by the Community Development Director.

40. Should problems arise with regarding noise associated with the outdoor dining area, the Planning Division shall require the removal of all or a portion of the outdoor dining area, and/or seating in the areas that contribute or cumulatively contribute to the noise problems or complaints. The Community Development Director may also curtail or reduce hours of operation and use of the outdoor dining area in response to noise complaints or loud and unreasonable noise generated by the outdoor dining use.
41. The use of area heaters shall remain consistent with the approval by the Public Works Department, Building Division and the Fire Department. The use of propane heaters and the storage of propane containers on the premises are prohibited, unless otherwise approved by the Fire Department
42. Should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current owner or the leasing company.
43. The primary use of the proposed facility shall be the operation of a restaurant which shall provide a menu containing an assortment of food normally offered by such restaurant. Full meal service shall be provided during all hours of operation. The premises shall be furnished with tables and chairs at which food or beverages may be comfortably consumed, and the operatory shall supply all necessary cutlery, condiments, and linens with which an eating establishment is customarily equipped.
44. All mechanical equipment and trash areas shall be screened from surrounding public streets and adjoining properties. All trash areas shall be screened from the adjoining properties and streets.
45. The area outside of the food establishment, including the public sidewalk, shall be maintained in a clean and orderly manner. The exterior of the business including the common seating areas of the shopping center shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises. The operator of the food service use shall be responsible for the clean-up of all on-site and off-site trash, garbage and litter generated by the use.
46. Trash receptacles for patrons shall be conveniently located both inside and outside of the proposed facility, but not located on or within any public property or right-of-way, unless otherwise approved by the Public Works Department.
47. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three (3) walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes. The trash dumpsters shall have a top, which shall remain closed at all times, except when being loaded or while being collected by the refuse collection agency.

48. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
49. Storage outside of the building in the front or at the rear of the property (except within a fully screened enclosure approved by the Planning Division) shall be prohibited, with the exception of the required trash container enclosure.
50. A covered wash-out area for refuse containers and kitchen equipment, with minimum useable area dimensions of 36-inches wide, 36-inches deep and 72-inches high, shall be maintained, and the area shall drain directly into the sewer system, unless otherwise approved by the Building Manager and Public Works Director in conjunction with the approval of an alternate drainage plan.
51. Grease interceptors shall be maintained for the restaurant facility in accordance with the provisions of the California Plumbing Code, unless otherwise approved by the Building Division.
52. Kitchen exhaust fans shall be maintained in accordance with the Uniform Mechanical Code. The issues with regard to the control of smoke and odor shall be directed to the South Coast Air Quality Management District.
53. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the **Pizzeria Mozza** including, but not limited to, the **Minor Use Permit No. UP2011-023**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Police Department Conditions

54. The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control shall be a Type 47 in conjunction with the service of food as the principal use of the facility.

55. This approval does not permit the premises to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Newport Beach Municipal Code.
56. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
57. There shall be no exterior advertising or signs of any type, including advertising directed to the exterior from within, promoting or indication the availability of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
58. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when offered in conjunction with food ordered from the full service menu. There shall be no reduced price alcoholic beverage promotion after 9:00 p.m.
59. The petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based up on monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
60. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on command.
61. There shall be no on-site radio television, video, film, or other electronic or media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.
62. Live entertainment and dancing shall be prohibited as a part of the regular operation of the establishment.
63. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
64. Food service from the regular menu must be available to patrons up to thirty (30) minutes before the scheduled closing time.
65. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on

the premises and shall be presented upon request by a representative of the City of Newport Beach.

66. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

Attachment No. PC 2

Draft Resolution - Reverse

RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH REVERSING THE DECISION OF THE ZONING ADMINISTRATOR AND DENYING MINOR USE PERMIT NO. UP2011-023 TO AMEND EXISTING USE PERMIT 3542 TO UPGRADE THE EXISTING TYPE 41 ON-SALE BEER AND WINE ABC LICENSE TO A TYPE 47 ON-SALE GENERAL (BEER, WINE & DISTILLED SPIRITS) ABC AND TO CHANGE THE ALLOWED HOURS OF OPERATION FOR THE INTERIOR OF THE RESTAURANT FROM 12:00 MIDNIGHT, DAILY TO 11:00 P.M., DAILY LOCATED AT 800 WEST COAST HIGHWAY (PA2011-139)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Occhio Rosso, LLC, with respect to property located at 800 West Coast Highway, and legally described as Lots 24 and 25, Tract No. 1210, requesting approval of a minor use permit.
2. The applicant proposes an amendment existing Use Permit 3542 to upgrade the existing Type 41 On-Sale Beer and Wine ABC license to a Type 47 On-Sale General (Beer, Wine & Distilled Spirits) ABC License and to change the allowed hours of operation for the interior of the restaurant from 12:00 midnight, daily to 11:00 p.m., daily.
3. The subject property is located within the General Commercial (CG) Zoning District. The General Plan Land Use Element designation is General Commercial (GC).
4. A public hearing was held on October 20, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place, and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. Pursuant to Section 15270 of the California Environmental Quality Act (CEQA) Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. REQUIRED FINDINGS.

The Planning Commission may approve a minor use permit only after making each of the required findings set forth in Section 20.48.030 and Section 20.52.020 of the Zoning Code. In

1. The upgrade of the existing Type 41 On-Sale Beer and Wine ABC license to a Type 47 On-Sale General (Beer, Wine & Distilled Spirits) ABC License could be detrimental to the surrounding neighborhood.

NOW, THEREFORE, BE IT RESOLVED:

- PASSED, APPROVED AND ADOPTED THIS 20th DAY OF OCTOBER, 2011.**

ABSENT:

BY: _____, Secretary

Attachment No. PC 3

Zoning Administrator Action Letter



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

3300 Newport Boulevard, Building C, Newport Beach, CA 92663

(949) 644-3200 Fax: (949) 644-3229

www.newportbeachca.gov

NOTICE OF ZONING ADMINISTRATOR ACTION

September 14, 2011

Occhio Rosso, LLC
45 East 20th Street, 3rd Floor
New York, NY 10003

Application No. **Minor Use Permit No. UP2011-023**
 (PA2011-139)

Site Address **800 W. Coast Hwy**
 Pizzeria Mozza

On September 14, 2011, the above referenced application was approved based on the findings and conditions in the attached action letter.

On behalf of Jaime Murillo, Zoning Administrator

By: Melinda Whelan
Melinda Whelan, Assistant Planner

GR/msw

APPEAL PERIOD: The applicant or any interested party may appeal the decision of the Zoning Administrator to the Planning Commission by submitting a written appeal application to the Community Development Director within 14 days of the action date. For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

cc:

property owner
800 West Coast HighwaLLC
411 Irvine Avenue
Newport Beach, CA 92663

contact

Art Rodriguez and Associates Attn: Brett
Engstrom or Peter Impala
709 E. Colorado Blvd., #200
Pasadena, CA 91101



COMMUNITY DEVELOPMENT DEPARTMENT
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ZONING ADMINISTRATOR ACTION LETTER

Application No. Minor Use Permit No. UP2011-023
 (PA2011-139)

Applicant Occhio Rosso, LLC

Site Address 800 W. Coast Hwy
 Pizzeria Mozza

Legal Description Lots 24 and 25, Tract No. 1210

On September 14, 2011, the Zoning Administrator approved the following: A minor use permit to amend existing Use Permit 3656 to upgrade the existing Type 41 On-Sale Beer and Wine ABC license to a Type 47 On-Sale General (Beer, Wine & Distilled Spirits) ABC License and to reduce the hours of operation for the interior of the restaurant to close at 11:00 p.m., daily instead of 12:00 midnight, daily. The property is located in the CG (Commercial General) District. The Zoning Administrator's approval is based on the following findings and subject to the following condition(s).

REQUIRED FINDINGS

Finding

- A. *The project has been reviewed, and it qualifies for a categorical exemption pursuant to Section 15301 of the California Environmental Quality Act under Class 1 (Existing Facilities) of the Implementing Guidelines of the California Environmental Quality Act.*

Facts in Support of Finding

- A-1. The Class 1 exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The proposed project involves the change of the type alcohol beverage license and the change of hours of an existing restaurant with no construction proposed. Therefore, the existing restaurant use qualifies for a categorical exemption under Class 1.

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

- B. *The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code).*

Facts in Support of Finding

- B-1. The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The service of beer, wine and distilled spirits is intended for the convenience of customers dining at the restaurant. Operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts.
- B-2. The hours of operation will minimize the potential effects of noise on neighboring businesses and residences to preserve the health and safety for visitors and other businesses in the neighborhood.

In accordance with Section 20.52.020.F of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

- C. *The use is consistent with the General Plan and any applicable specific plan;*

Facts in Support of Finding

- C-1. The General Plan land use designation for this site is GC (General Commercial). The GC provides provide for a wide variety of commercial activities oriented primarily to serve citywide or regional needs. The existing restaurant, including the proposed Type 47 ABC license and reduced hours of operation, is consistent with this land use category.
- C-2. Eating and drinking establishments are common in the vicinity and are frequented by the surrounding businesses, travelers that visit the City and residents of the City. The establishment is compatible with the land uses permitted within the surrounding neighborhood.
- C-3. The subject property is not part of a specific plan area.

Finding

- D. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;*

Facts in Support of Finding

- D-1. The site is located in the Commercial General (CG) Zoning District. The restaurant, including the proposed Type 47 ABC license and reduced hours of operation, is allowed subject to the approval of a minor use permit in the CG Zoning District.
- D-2 The restaurant facility adds to the high aesthetic enhancement to the site benefiting the area and is consistent with the Mariner's Mile Strategic Vision and Design Framework.

Finding

- E. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*

Facts in Support of Finding

- E-1. The operation of the interior of the restaurant was previously restricted to the closing hour of 12:00 midnight, daily by Condition No. 5 of Use Permit 3542. Reducing the closing hour to 11:00 p.m., daily will create greater compatibility with the surrounding uses as the hour is not considered late. The earlier closing hour is compatible with surrounding uses which are comprised of commercial businesses, restaurants, and residential.
- E-2. A restaurant has operated at this location since 1963 and Use Permit No. 3542 was approved in 1994 to grant a change in operational characteristics of the existing restaurant use with beer and wine service. The use has not proven detrimental to the area. This demonstrates the location's capability of operating as a compatible use with other land uses in the vicinity.
- E-3. The applicant is required to control trash and litter around the subject property.
- E-4. The operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts. The project has been conditioned to ensure the welfare of the surrounding community so that the business remains a restaurant and does not become a bar or tavern. The project has been conditioned so that no dancing or live entertainment will be permitted on the premises.
- E-5. The applicant has installed a grease interceptor and obtained Health Department approval. The establishment will comply with the California Building Code and requirements of the Alcoholic Beverage Control Department to ensure the safety and welfare of customers and employees within the establishment.

Finding

- F. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*

Facts in Support of Finding

- F-1. The project site was issued a Staff Approval of substantial conformance with Use Permit No. 3542 to authorize changes in operational characteristics including interior and exterior remodel of the building, a kitchen and service area addition, elimination of an existing enclosed patio to accommodate for the future widening of West Coast Highway, a 9-foot retaining wall to provide additional area for improved on-site parking and vehicle circulation, construction of a covered trash and recycling storage area, and alteration of existing vehicular circulation and parking areas and the maintenance of full valet parking service. Therefore the building structure and site is designed and developed for an eating and drinking establishment. The design, size, location, and operating characteristics of the use are compatible with the surrounding neighborhood.
- F-2 The full valet parking service plan will be updated and required to be re-approved by the City Traffic Engineer and Community Development Director to update operational details to improve the use and circulation of the parking areas.
- F-2. Adequate public and emergency vehicle access, public services, and utilities are provided within the existing tenant space.

Finding

- G. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

- G-1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
- G-2. The food service, eating and drinking establishment will continue to serve the surrounding commercial and residential community locally and regionally. The proposed establishment provides dining services as a public convenience to the surrounding neighborhood. The continued service of alcohol will provide an

economic opportunity for the property owner to maintain a successful business at this location in a way which best serves the quality of life for the surrounding community.

CONDITIONS OF APPROVAL

The following conditions of approval shall supersede the conditions of approval granted for Use Permit No. 3542 on October 20, 1994, as reviewed and modified by the Planning Director on May 14, 2010 and the accessory outdoor dining permit OD2010-003.

1. The development shall be in substantial conformance with the approved site plan, floor plan(s) and building elevations per the plans dated February 23, 2011. (Except as modified by applicable conditions of approval.)
2. Any change in operational characteristics, hours of operation, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new Use Permit.
3. The applicant shall provide a minimum of one (1) on-site parking space for each three (3) seats within the restaurant dining and waiting areas or a total of 25 parking spaces.
4. The hours of operation for the interior of the restaurant facility shall be limited to the hours between 11:00 a.m. and 11:00 p.m., daily. The outdoor dining area shall be subject to the hours of operation of 11:00 a.m. to 10:00 p.m., daily. All activities within the outdoor dining area, including cleanup activities, shall cease at the specified closing hour of the outdoor dining area. Increases in the hours of operation for the outdoor dining area shall require approval of an amendment to this application.
5. The lighting in the parking area and restaurant facility shall be shielded in such a manner so as to eliminate light and glare spillage on surrounding uses and properties and West Coast Highway consistent with Section 20.30.070 of the NBMC.
6. All employees shall park their vehicles on-site, or at an off-site location approved by the Community Development Director.
7. Prior to exercising this Minor Use Permit, a revised valet parking and operations plan shall be submitted for review and approval by the Community Development Director. The valet and operations plan shall include a security component with provisions to address unlawful patron parking on adjacent properties. The circulation and parking layout on the revised valet parking plan shall be reviewed and approved by the City Traffic Engineer. Should problems arise in the future, the Community Development Director may require the preparation of a new valet parking and operations plan.

8. The valet drop off and pick up location shall be sufficiently set back from the public right of way to ensure that staging/queuing vehicles will not impact the public right-of-way.
9. The valet operation shall be sufficiently staffed to ensure that the valet operation does not impact the public right of way.
10. The valet operation shall comply with the most current California Vehicle Code (CVC).
11. The valet operation shall incorporate the "move one vehicle to get one vehicle" policy.
12. The valet parking service shall be utilized during all hours that the restaurant facility is open to the public.
13. All signs shall conform to the requirements of Chapter 20.67 of the Newport Beach Municipal Code.
14. No temporary "sandwich" signs, banners, balloons or similar temporary signs or attention attracting devices shall be permitted, either on-site or off-site, to advertise the food establishment, unless specifically permitted in accordance with the Sign Ordinance of the Newport Beach Municipal Code, Chapter 20.42.
15. Temporary signs shall be prohibited in the public right-of-way unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.
16. The landscape planter no less than 4 feet in width shall be maintained in accordance with the Mariner's Mile Strategic Plan and Design Framework and approved site plan.
17. Future changes to the exterior design of the building site shall require review by the Community Development Director for consistency with the Mariners Mile Strategic Vision Design Framework.
18. The applicant shall maintain the landscape and irrigation plan with drought tolerant plantings and water efficient irrigation practices, approved by the Planning Division and the Municipal Operators. All planting areas shall be maintained with a permanent underground automatic sprinkler irrigation system of a design suitable for the type and arrangement of the plant materials selected.
19. The irrigation system shall be adjustable based upon either a signal from a satellite or an on-site moisture-sensor. Planting areas adjacent to vehicular activity shall be protected by a continuous concrete curb or similar permanent barrier. Landscaping shall be located so as not to impede vehicular sight distance to the satisfaction of the Traffic Engineer. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of

- weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
20. All improvements shall be constructed as required by Ordinance and the Public Works Department.
 21. The applicant is required to obtain all applicable permits from the City Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. All construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required.
 22. This Use Permit may be modified or revoked by the Zoning Administrator, Planning Commission or the City Council should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
 23. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Community Development Director, and may require an amendment to this use permit.
 24. Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge, including minimum drink orders or sale of drinks is prohibited.
 25. All doors and windows of the entire facility shall remain closed at all times except for the ingress and egress of patrons and employees.
 26. All entrances and exits to the building shall remain free of obstructions and available for ingress and egress at all times.
 27. The operator shall not allow occupancy of the building to exceed the occupancy limits established by the Building Division or Fire Department. Strict adherence to maximum occupancy limits is required.
 28. The use of private (enclosed) "VIP" rooms or any other temporary or permanent enclosures separate from public areas are prohibited.
 29. The outdoor dining area shall be used in conjunction with the related eating and drinking establishment and shall be limited to 202 square feet in area (17 percent of the total net public area of 1,182 square feet). Seating within the existing eating and drinking establishment, including the outdoor dining area, shall be limited to a maximum of 75 seats, unless an amendment to this Minor Use Permit is approved.

30. At such a time that the City widens West Coast Highway in this area, the applicant shall reconfigure the main entry doorway to the eating and drinking establishment to eliminate the door swing within the future public right-of-way. Alterations shall be made at the sole cost and expense of the applicant.
31. The boundary of the outdoor dining area shall be marked to define the maximum 202 square foot area on the pavement or through the use of fences, walls, or similar barriers. Fences, walls or similar barriers shall serve only to define the outdoor dining area and not constitute a permanent all weather enclosure.
32. The installation of roof coverings shall not have the effect of creating a permanent enclosure. The use of umbrellas or a retractable canvas cover for shade purposes shall be permitted. The use of any other type of overhead covering, including solid ridged roof coverings, shall be subject to review and approval by the Community Development Director and may require an amendment to this permit.
33. The outdoor dining area shall be designed to meet exiting and fire protection requirements as specified by the California Building Code and shall be subject to review and approval by the Building Division and the Fire Department.
34. The project shall comply with the most recent, City-adopted version of the California Building Code and California Plumbing Code.
35. Approval is required by the Orange County Health Department prior to the final of building permits.
36. All doors and windows of the entire facility, including those doors and/or windows leading to the outdoor dining area, shall remain closed at all times except for the ingress and egress of patrons and employees.
37. No amplified music is permitted in the outdoor dining area.
38. The operator of the eating and drinking establishment shall be responsible for the control of noise generated by the patrons of the subject facility. The use of outside loudspeakers, paging system or sound system shall be prohibited in the outdoor dining area or outside of the building. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code. Chapter 10.26 provides, in part, that the noise should shall be limited to no more than depicted below for the specified time periods:

	Between the hours of 7:00 a.m. and 10:00 p.m.		Between the hours of 10:00 p.m. and 7:00 a.m.	
	<u>interior</u>	<u>exterior</u>	<u>interior</u>	<u>exterior</u>
Measured at the property line of commercially zoned property:	N/A	65 dBA	N/A	60 dBA
Measured at the property line of residentially zoned property:	N/A	60 dBA	N/A	50 dBA

Residential property:	45 dBA	55 dBA	40 dBA	50 dBA
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39. The applicant shall retain a qualified engineer specializing in noise/acoustics to monitor the sound generated by the outdoor dining activity to insure compliance with these conditions, if required by the Community Development Director.
40. Should problems arise with regarding noise associated with the outdoor dining area, the Planning Division shall require the removal of all or a portion of the outdoor dining area, and/or seating in the areas that contribute or cumulatively contribute to the noise problems or complaints. The Community Development Director may also curtail or reduce hours of operation and use of the outdoor dining area in response to noise complaints or loud and unreasonable noise generated by the outdoor dining use.
41. The use of area heaters shall remain consistent with the approval by the Public Works Department, Building Division and the Fire Department. The use of propane heaters and the storage of propane containers on the premises are prohibited, unless otherwise approved by the Fire Department
42. Should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current owner or the leasing company.
43. The primary use of the proposed facility shall be the operation of a restaurant which shall provide a menu containing an assortment of food normally offered by such restaurant. Full meal service shall be provided during all hours of operation. The premises shall be furnished with tables and chairs at which food or beverages may be comfortably consumed, and the operatory shall supply all necessary cutleries, condiments, and linens with which an eating establishment is customarily equipped.
44. All mechanical equipment and trash areas shall be screened from surrounding public streets and adjoining properties. All trash areas shall be screened from the adjoining properties and streets.
45. The area outside of the food establishment, including the public sidewalk, shall be maintained in a clean and orderly manner. The exterior of the business including the common seating areas of the shopping center shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises. The operator of the food service use shall be responsible for the clean-up of all on-site and off-site trash, garbage and litter generated by the use.
46. Trash receptacles for patrons shall be conveniently located both inside and outside of the proposed facility, but not located on or within any public property or right-of-way, unless otherwise approved by the Public Works Department.

47. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes. The trash dumpsters shall have a top, which shall remain closed at all times, except when being loaded or while being collected by the refuse collection agency.
48. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
49. Storage outside of the building in the front or at the rear of the property (except within a fully screened enclosure approved by the Planning Division) shall be prohibited, with the exception of the required trash container enclosure.
50. A covered wash-out area for refuse containers and kitchen equipment, with minimum useable area dimensions of 36-inches wide, 36-inches deep and 72-inches high, shall be maintained, and the area shall drain directly into the sewer system, unless otherwise approved by the Building Manager and Public Works Director in conjunction with the approval of an alternate drainage plan.
51. Grease interceptors shall be maintained for the restaurant facility in accordance with the provisions of the California Plumbing Code, unless otherwise approved by the Building Division.
52. Kitchen exhaust fans shall be maintained in accordance with the Uniform Mechanical Code. The issues with regard to the control of smoke and odor shall be directed to the South Coast Air Quality Management District.
53. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the **Pizzeria Mozza** including, but not limited to, the **Minor Use Permit No. UP2011-023**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to

the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Police Department Conditions

54. The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control shall be a Type 47 in conjunction with the service of food as the principal use of the facility.
55. This approval does not permit the premises to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Newport Beach Municipal Code.
56. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
57. There shall be no exterior advertising or signs of any type, including advertising directed to the exterior from within, promoting or indication the availability of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
58. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when offered in conjunction with food ordered from the full service menu. There shall be no reduced price alcoholic beverage promotion after 9:00 p.m.
59. The petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based up on monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
60. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on command.
61. There shall be no on-site radio television, video, film, or other electronic or media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.
62. Live entertainment and dancing shall be prohibited as a part of the regular operation of the establishment.
63. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.

64. Food service from the regular menu must be available to patrons up to thirty (30) minutes before the scheduled closing time.
65. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
66. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

PUBLIC NOTICE

Notice of this application was mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code.

APPEAL PERIOD: Use Permit applications do not become effective until 14 days following the date of action. Prior to the effective date the applicant or any interested party may appeal the decision of the Zoning Administrator to the Planning Commission by submitting a written appeal application to the Community Development Director. For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

By: 
Jaime Murillo, Zoning Administrator

JM/msw

Attachments: ZA 1 Vicinity Map
 ZA 2 Plans

Attachment No. PC 4

Appeal Letter

Law Offices of Robert C. Hawkins

110 Newport Center Drive, Suite 200

Newport Beach, California 92660

(949) 650-5550

Fax: (949) 650-1181

FAX COVER SHEET**TRANSMITTED TO:**

NAME	FAX NUMBER	PHONE NUMBER
Kimberly Brandt, AICP, Community Dev. Dir.	(949) 644-3229	
Leilani Brown, City Clerk	(949) 644-3039	

From: Robert C. Hawkins

Client/Matter: Planning Commission

Date: September 28, 2011

Documents: Appeal/Call for Review

Pages: 3*

COMMENTS: Original will follow as indicated.

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LAW OFFICES OF ROBERT C. HAWKINS

September 28, 2011

Via Facsimile Only

Kimberly Brandt, AICP, Community Development Director
Community Development Department
City of Newport Beach
3300 Newport Blvd.
Newport Beach, California 92663

Re: Appeal of the Zoning Administrator's Grant of Use Permit No. UP2011-023
(PA2011-139) for Pizzeria Mozza at 800 West Coast Highway

Greetings:

As you know, I am honored to serve as a member of the City's Planning Commission for the City of Newport Beach. As a planning commissioner and pursuant to the Municipal Code, I appeal/call for review the captioned action.

At the outset, the Planning Commission has recommended changes to the Zoning Code to limit minor use permits for alcohol uses for special situations and to require use permits with hearings before the Planning Commission in areas where such uses are adjacent to residential uses. The captioned actions falls within the latter category: the alcohol use is located on Mariners Mile which has residential uses above the site. Indeed, the Planning Commission recently denied a project (Metro Pointe) which was subsequently approved by the Council in part due to concerns over adjacent residential impacts of the Project. The captioned matter requires a full hearing before the Planning Commission to review and understand the potential for impacts of the Project on adjacent residential uses. Thus, this appeal/call for review is appropriate.

I also appeal the decision for the following reasons: Finding E-G cannot be made because the presence of alcohol in the outdoor dining area conflicts with the General Plan and the Zoning Code, and is incompatible with adjacent residential uses; the Conditions of Approval are internally inconsistent.

110 Newport Center Drive, Suite 200
Newport Beach, California 92660
(949) 650-5550
Fax: (949) 650-1181

Kimberly Brandt, AICP Community Development Director

- 2 -

September 28, 2011

2. First, Finding E states: "The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity." The captioned approval notes that the Project includes a reduction in hours of operation from midnight to 11:00 pm.

However, the published closing hours of operation for Pizzeria Mozza is 11:00 pm. The approval does not change this closing time. Moreover, it is unclear that the conditions will limit or mitigate the impacts of the full bar on the adjacent residences many of whom testified in the Metro Pointe hearing that they were very concerned about alcohol establishments below their residences with the potential for disruptive noise and parties.

3. Second, Finding F states:

"The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities;"

The specific facts in support of this do not mention the adjacency to residential uses which are less than one hundred feet away.

4. Moreover, fact F-2 states:

"The full valet parking service plan will be updated and required to be re-approved by the City Traffic Engineer and Community Development Director to update operational details to improve the use and circulation of the parking areas."

However, this full valet parking service plan is not attached to the decision and does not currently exist. Without knowing exactly what the parking plan is, F-2 cannot state with any certainty that it will "improve the use and circulation of the parking areas." This is simply deferring to another day a finding which must be made now.

5. Finally, Finding G states:

"Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

Fact G-1 in support of this finding states in part:

"The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment."

Kimberly Brandt, AICP Community Development Director

- 3 -

September 28, 2011

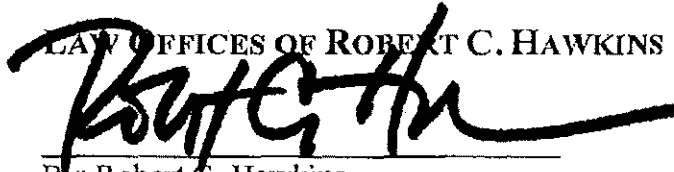
However, this fact is more a hope or a wish. It is not enforceable. G-1 recognizes that a restaurant with a full bar near residential uses may create potential land use conflicts. However, the remedy does not provide any assurance that the conflicts will not exist.

This Project requires review by the Planning Commission to ensure that residents and others in the community have an opportunity to present their comments and concerns to the City and its decision makers.

Given that the hearing will be de novo, I reserve the right to supplement additional reasons which may arise during this appeal process or in review of public records in connection with this matter.

Thank you for your assistance in this matter. Of course, notwithstanding this appeal, thank you for the fine and difficult work that you and your department have done and continue to do. I look forward to learning the date and time of the hearing on this appeal. Should you have any questions, please do not hesitate to contact me.

Sincerely,

LAW OFFICES OF ROBERT C. HAWKINS

By: Robert C. Hawkins

RCH/kw

cc: Leilani Brown, City Clerk (Via Facsimile Only)

Law Offices of Robert C. Hawkins

110 Newport Center Drive, Suite 200

Newport Beach, California 92660

(949) 650-5550

Fax: (949) 650-1181

FAX COVER SHEET**TRANSMITTED TO:**

NAME	FAX NUMBER	PHONE NUMBER
Kimberly Brandt, AICP, Community Dev. Dir.	(949) 644-3229	
Leilani Brown, City Clerk	(949) 644-3039	

From: Robert C. Hawkins

Client/Matter: Planning Commission

Date: October 6, 2011

Documents: Appeal/Call for Review

Pages: 1 *

COMMENTS: Original will follow as indicated.

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LAW OFFICES OF ROBERT C. HAWKINS

October 6, 2011

Via Facsimile Only

Kimberly Brandt, AICP, Community Development Director
Community Development Department
City of Newport Beach
3300 Newport Blvd.
Newport Beach, California 92663

Re: Appeal of the Zoning Administrator's Grant of Use Permit No. UP2011-023
(PA2011-139) for Pizzeria Mozza at 800 West Coast Highway

Greetings:

In connection with the captioned appeal, please be advised that I have learned about a typographical error in the appeal. All references to "Metro Pointe" should be to "Mariners Pointe."

Please accept my apologies for this error and hope it did not confuse you unnecessarily. Should you have any questions, please do not hesitate to contact me.

Sincerely,

LAW OFFICES OF ROBERT C. HAWKINS

A handwritten signature in black ink, appearing to read "Robert C. Hawkins", written over a horizontal line.

By: Robert C. Hawkins

RCH/kw

cc: Leilani Brown, City Clerk (Via Facsimile Only)

110 Newport Center Drive, Suite 200
Newport Beach, California 92660
(949) 650-5550
Fax: (949) 650-1181

Attachment No. PC 5

Correspondence

JAMES C. PERSON, JR.

Attorney at Law
507 29th Street - Suite A
Newport Beach, California 92663

Telephone (949) 673-9201
Facsimile (949) 673-0774
E-Mail buzzlaw@buzzperson.com

September 7, 2011

Mr. Jaime Murillo
Zoning Administrator
City of Newport Beach (BY PERSONAL DELIVERY)
3300 Newport Blvd.
Newport Beach, CA 92663

Re: Pizzeria Mozza; 800 W. Coast Highway; UP2011-023

Dear Mr. Murillo:

This office represents Mr. and Mrs. Levon Gugasian, the property owners of the real property at 900-1000 W. Coast Highway, Newport Beach.

Mr. and Mrs. Gugasian are opposed to the requested intensification of use on this property and respectfully request that this Use Permit be denied. There are several reasons for their position on this matter, however the greatest has to do with the intensification of parking on the property, the adjoining street and in neighbor's facilities.

Since this establishment recently opened, there has been an alarming increase in the demand on parking in the area. Several of the Gugasian's tenants have complained to my clients that patrons from Pizzeria Mozza have been parking in the lot maintained by my client at their property at 900-1000 W. Coast Highway.

In addition to the added patronage at the property which we believe has exceeded occupancy on several occasions, my clients believe that the exorbitant valet charge of \$8.00 per vehicle is actually a disincentive to use the onsite parking available for the site, thereby encouraging patrons to seek parking on the street or nearby other parking facilities such as the one maintained by my client.

My clients believe that the occupancy of the business should be brought back to a level consistent with free, non valet, parking, thereby lessening the impact on the neighborhood.

Mr. Jaime Murillo
September 7, 2011
Page 2

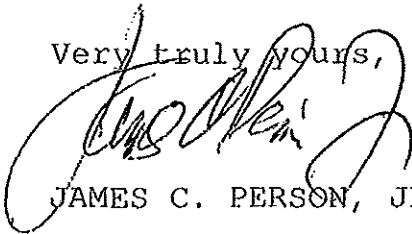
My clients have also noticed that the location of the valet's station has had an significant impact on the traffic on Coast Highway. The City required my client to make major improvements to his property specifically to avoid such impacts. The same should be required of the applicant and for certain, the valet station should not have an adverse impact of the normal flow of traffic along Coast Highway.

Finally, my clients believe that the overall intensification of use is a general on sale liquor license is not in the best interest of the City of Newport Beach and ask whether or not such a license is normally related to the sale of pizza. They believe that traditionally, patrons of pizza establishments do fine with the consumption of beer and wine and that the sale of spirits is not necessary at this site.

In closing, my clients respectfully request that this permit be denied.

Thank you for your consideration of these comments.

Very truly yours,



JAMES C. PERSON, JR.

JCP/cl

cc: Mr. and Mrs. Levon Gugasian

JAMES C. PERSON, JR.

Attorney at Law
507 29th Street - Suite A
Newport Beach, California 92663

Telephone (949) 673-9201
Facsimile (949) 673-0774
E-Mail buzzlaw@buzzperson.com

September 12, 2011

Mr. Jaime Murillo
Zoning Administrator
City of Newport Beach **(BY PERSONAL DELIVERY & ELECTRONIC MAIL)**
3300 Newport Blvd.
Newport Beach, CA 92663

Re: Pizzeria Mozza; 800 W. Coast Highway; UP2011-023

Dear Mr. Murillo:

Staff has provided me with a copy of the Electronic Mail from a Mr. Brad Saltzman who purports to be the "owner/operator" of the valet parking company hired by Pizzeria Mozza. It is clear from that email that Mr. Saltzman does not have a clue about restaurant and restaurant patrons in Newport Beach.

At the outset, let me make it clear that Mr. and Mrs. Gugasian have not changed their view about this problem as a result of anything contained in the email from Mr. Saltzman. To the contrary, they remain more committed to their view as expressed in the original correspondence from the undersigned dated September 7, 2011.

Just this weekend, after Mr. Saltzman's email, Mr. Gugasian personally had to intervene with two different cars attempting to park on his premises by patrons from Pizzeria Mozza. On one occasion, the driver of the vehicle indicated he was parking in Mr. Gugasian's lot because he did not want to pay for parking and didn't understand why it was not ok to park on Mr. and Mrs. Gugasian's property since there were spaces available.

There are a number of flaws in Mr. Saltzman's reasoning and rationale. At the outset, it is not my clients' concern, and it should not be the City's concern, as to how much Pizzeria Mozza is paying for offsite parking. The operators should have thought of this before they decided on this property. If this is the case, I am aghast that the City has approved, or would condone, an offsite valet parking plan for a church up on Dover Drive, which has to be close to a half mile away. I have never heard of such a parking arrangement in Newport before.

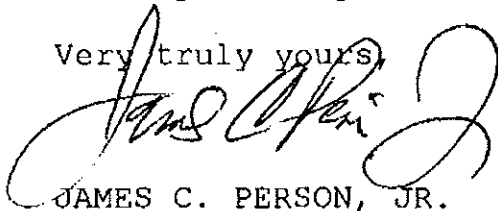
Mr. Jaime Murillo
September 12, 2011
Page 2

Secondly, I reiterate the fact that the amount charged, does nothing except discourage use of the valet parking. This is not Hollywood or Melrose Ave. I would submit that most people who come to Pizzeria Mozza are not prepared to spend \$8.00 or thanks to Mr. Saltzman's generous reduction of \$1.00, \$7.00 for valet parking. Mr. Saltzman is correct that most restaurants took parking into consideration before they entered into their lease and made sure that there was adequate parking, on site. This is not the case with Pizzeria Mozza. Parking to enter a restaurant should not be contingent upon how much profit Mr. Saltzman needs to make, nor should it have anything to do with what a restaurant pays for its required parking. These are things which should have been considered before the site was chosen.

My clients continue to believe that the overall intensification of use is a general on sale liquor license is not in the best interest of the City of Newport Beach and ask whether or not such a license is normally related to the sale of pizza and continue to respectfully request that this permit be denied.

Thank you for your consideration of these comments.

Very truly yours,

A handwritten signature in black ink, appearing to read "James C. Person, Jr.", written over the typed name.

JAMES C. PERSON, JR.

JCP/cl

cc: Mr. and Mrs. Levon Gugasian

AMENDMENT TO PIZZARIA MOZZA USE PERMIT 3656

To: Melinda Whelan
CNB Planning Department
Re: Pizzeria Mozza
800 West Coast Highway
Project File # PA2010-139
Activity # UP2011-023

September 14, 2011

I am not able to attend the public hearing regarding this matter that is scheduled this afternoon at 3:30PM. I therefore ask that the following comments be entered into the public record.

I object to the unconditional acceptance of the proposed amendment to existing Use Permit 3656. The reason has to do with the misrepresentation and fraud that was perpetrated by both the manufacturer and the architect during plan check regarding the all-white roof that is presently installed. The problem with the all-white roof is the enormous amount of glare that it produces during sunny days for the residents living on the bluff above the restaurant. Subsequent to my complaint to the Planning Department regarding this problem, the City sent notice to the architect (with copies to the property owner, and business owner) that the color of the roof must be modified to match the color sample provided to the City during plan check. The change of color was required to be completed within 40 days. That was over two months ago. Worse yet, to add insult to injury, the City directed that a solution with the roof color issue be resolved prior to issuing the final certificate of occupancy. To date, the restaurant is open for business and nothing whatsoever has been done to either correct or mitigate the glare that is produced by the all-white roof.

I am therefore requesting that, if approved, the amendment to change the existing Type 41 ABC license to a Type 47 be conditional upon two things. One is that the existing problem with the all-white roof be corrected prior to the ABC license change. The other is that continuation of the type 47 ABC license require that whatever fix is implemented to eliminate the present glare from the all-white roof, be maintained indefinitely by the property owner.

W. Gary Sokolich, Ph.D.
Scientific & Technical Consultant
949-650-5379

AMENDMENT TO PIZZARIA MOZZA USE PERMIT 3656

To: Melinda Whelan
CNB Planning Department
Re: Pizzeria Mozza
800 West Coast Highway
Project File # PA2010-139
Activity # UP2011-023

September 14, 2011

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I am therefore requesting that, if approved, the amendment to change the existing Type 41 ABC license to a Type 47 be conditional upon two things. One is that the existing problem with the all-white roof be corrected prior to the ABC license change. The other is that continuation of the type 47 ABC license require that whatever fix is implemented to eliminate the present glare from the all-white roof, be maintained indefinitely by the property owner.

W. Gary Sokolich, Ph.D.
Scientific & Technical Consultant
949-650-5379

Attachment No. PC 6

Use Permit 3542

ADAMS
DI SANO
EDWARDS
GIFFORD
GLOVER
POMEROY
JIDGEWAY

CITY OF NEWPORT BEACH

October 20, 1994

ROLL CALL

INDEX

the Public Works Department, prior to the issuance of a building permit.

3. That the applicant shall obtain a building permit for the proposed sign from the Building Department.

4. That the proposed temporary sign shall be removed in conjunction with the development of the subject, vacant property.

* * *

Use Permit No. 3542 (Public Hearing)Item No.2

Request to change the operational characteristics of an existing restaurant with on-sale beer and wine, on property located in the RSC-H District, so as to allow the use of valet and tandem parking in conjunction with the existing restaurant use.

UP3542Approved

LOCATION: Lots 24 and 25, Tract No. 1210, located at 800 West Coast Highway, on the northerly side of West Coast Highway, across from Bayshores.

ZONE: RSC-H

APPLICANT: Dolce Risterante, Newport Beach

OWNER: B. Manovi, Newport Beach

Commissioner Adams requested a clarification of Condition No. 12, Exhibit "A", recommending that development standards pertaining to walls, a portion of the landscaping, and underground utilities be waived. William Laycock, Current Planning Manager, explained that development standards for restaurants require 6 foot high walls to be constructed along all interior lot lines, and reduced to 3 feet in height adjacent to a street. Staff opined that the adjoining commercial properties would not be affected and the

CITY OF NEWPORT BEACH

October 20, 1994

ROLL CALL

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requirement would not be necessary. The standard requires that at least 10 percent of the total site area shall be devoted to landscaping; however, the existing restaurant site does not meet the 10 percent requirement, but has ample landscaping. The Planning Commission generally waives the undergrounding requirement on existing development.

Commissioner Ridgeway requested a clarification of Condition No. 6, Exhibit "A", stating *That the primary use of the proposed facility shall be the operation of a restaurant, which shall provide a menu containing an assortment of food normally offered by such restaurant. Food service from the full menu shall be available until one hour prior to closing time of each day of operation. The premises shall be furnished with tables and chairs at which food may be comfortably consumed, and with all cutlery, condiments, and linen with which an eating establishment is customarily equipped.* James Hewicker, Planning Director, explained that the Police Department requests this type of a condition so as to be assured that the premises would be operated as a bona-fide restaurant. Commissioner Ridgeway concurred with the second sentence of the condition; however, he recommended that the first sentence be modified to state *That the primary use of the proposed facility shall be the operation of a restaurant*, and that sentence 3 be deleted on the basis that it is a far-reaching condition.

In response to a question posed by Commissioner Adams, Robin Clauson, Assistant City Manager, replied that the proposed, amended definition for the term "restaurant" will not affect the existing restaurants in the City.

Commissioner Edwards suggested that Condition No. 6 be amended to state *That the primary use of the proposed facility shall be the operation of a restaurant, and shall be furnished in accordance with an eating establishment. Food service from the full menu shall be available until one hour prior to closing time of each day of operation.* Commissioner Ridgeway supported the amended condition.

ADAMS
DI SANO
EDWARDS
GIFFORD
GLOVER
POMEROY
RIDGEWAY

CITY OF NEWPORT BEACH

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Commissioner Pomeroy and Commissioner Edwards discussed the intent to keep *full menu* in Condition No. 6 so as to comply with the Police Department's concerns that the establishment operate consistently as a restaurant.

The public hearing was opened in connection with this item, and in response to questions posed by Commissioner Adams regarding valet parking, Mr. David Axe, applicant, appeared before the Planning Commission. Mr. Axe stated that the parking valets were included in the proposed six employees, and they would not oppose an added condition indicating that complimentary parking would be provided to the restaurant's patrons. In response to a question posed by Chairman Glover, Mr. Axe concurred with the findings and conditions in Exhibit "A".

There being no others desiring to appear and be heard, the public hearing was closed at this time.

Motion
Ayes
Absent

*
* *
*
* *
*
* *
*

Motion was made and voted on to approve Use Permit No. 3542 subject to the findings and conditions in Exhibit "A", and to amend Condition No. 6 as previously stated. Commissioner Adams requested that Condition No. 21 be added indicating that complimentary valet parking be provided to the restaurant's patrons. MOTION CARRIED.

Findings:

1. That the proposed application is consistent with the Land Use Element of the General Plan and is compatible with surrounding land uses.
2. That adequate parking will be available for the proposed use.
3. That the proposed development will not have any significant environmental impact.

CITY OF NEWPORT BEACH

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4. That the design of the proposed improvements will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.
5. That the waiver of the development standards regarding walls, a portion of the landscaping and underground utilities will not be detrimental due to the existing developed nature of the property.
6. That public improvements may be required of a developer per Section 20.80.060 of the Municipal Code.
7. That the approval of Use Permit No. 3542 will not, under the circumstances of this case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing and working in the neighborhood or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.

Conditions:

1. That the proposed development shall be in substantial conformance with the approved site plan and floor plan, except as noted below.
2. That the seating within the subject restaurant (including the patio dining) shall be limited to 90 seats.
3. That the applicant shall provide a minimum of one on-site parking space for each 3 seats (30 parking spaces) within the restaurant dining and waiting areas.
4. That the hours of operation for the restaurant facility shall be limited to the hours between 11:00 a.m. and 12:00 midnight, daily.

CITY OF NEWPORT BEACH

October 20, 1994

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5. That all signs shall conform to the requirements of Chapter 20.06 of the Municipal Code.
6. That the primary use of the proposed facility shall be the operation of a restaurant, and shall be furnished in accordance with an eating establishment. Food service from the full menu shall be available until one hour prior to closing time of each day of operation.
7. That no live entertainment or dancing shall be permitted unless an amendment to this use permit is approved by the Planning Commission.
8. That a washout area for refuse containers be provided in such a way as to allow direct drainage into the sewer system and not into the Bay or storm drains, unless otherwise approved by the Building Department.
9. That grease interceptors shall be installed on all fixtures in the restaurant facility where grease may be introduced into the drainage systems in accordance with the provisions of the Uniform Plumbing Code, unless otherwise approved by the Building Department.
10. That kitchen exhaust fans shall be designed to control smoke and odor to the satisfaction of the Building Department.
11. That all mechanical equipment and trash areas shall be screened from surrounding public streets and adjoining properties.
12. That the development standards regarding walls, a portion of the landscaping, and underground utilities shall be waived.
13. That no outdoor loudspeaker or paging system shall be permitted in conjunction with the proposed operation.

CITY OF NEWPORT BEACH

October 20, 1994

ROLL CALL

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14. That all employees shall park their vehicles on-site.
15. That the lighting in the parking area and restaurant facility shall be shielded in such a manner so as to eliminate light and glare spillage on adjacent uses and West Coast Highway.
16. That the required number of handicapped parking spaces shall be designed within the on-site parking area and shall be solely for handicapped self-parking. One handicapped sign or a post and one handicapped sign on the pavement shall be required for each handicapped space.
17. That all improvements be constructed as required by Ordinance and the Public Works Department.
18. That the on-site valet parking, vehicular circulation and pedestrian circulation systems shall be subject to further review and approval by the City Traffic Engineer. The valet parking service shall be utilized during all hours that the restaurant facility is open to the public.
19. That the Planning Commission may add or modify conditions of approval to this use permit, or recommend to the City Council the revocation of this use permit, upon a determination that the operation which is the subject of this use permit causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
20. This use permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.80.090A of the Newport Beach Municipal Code.
21. That complimentary valet parking shall be provided to patrons of the restaurant.

* * *

Attachment No. PC 7

Staff Approval



STAFF APPROVAL ACTION LETTER

PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
(949) 644-3200 FAX (949) 644-3229

Application: Staff Approval No. SA2010-004 (PA2010-058)
Use Permit No. 3542

Applicant: Occhio Rosso, LLC - Pizzeria Mozza

Site Address: 800 West Coast Highway

Legal Description: Lots 24 and 25, Tract No. 1210

On May 14, 2010, the Planning Director determined that proposed alterations and additions to and proposed changes in operational characteristics of an existing eating and drinking establishment are in substantial conformance with Use Permit No. 3542 approved by the City in 1994 and pursuant to the provisions of Section 20.91.055.A, the Planning Director waives the requirement for a new use permit application. Use Permit No. 3542 authorized a change in operational characteristics of an existing restaurant with beer and wine service and allowing the use of tandem parking and valet parking operations. The proposed changes are:

1. The interior and exterior remodel of the existing restaurant building modifying the existing floor plan.
2. A 157 square foot kitchen and service area addition on the northwest side of the existing building.
3. Elimination of an existing enclosed patio dining area to accommodate for the future widening of West Coast Highway.
4. The construction of a 9-foot high retaining wall at the north side of the property to provide additional area for improved on-site parking and vehicle circulation.
5. Construction of a covered trash and recycling storage area.
6. Alteration of the existing vehicular circulation and parking areas, and the maintenance of full valet parking service with Use Permit No. 3542.

This determination is based upon the following findings and conditions of approval.

Findings

1. *That the proposed location of the use is in accord with the objectives of this code and the purposes of the district in which the site is located.*

The project site is located in the RSC-MM Zoning District, which is intended to provide areas that are predominately retail in character, but allow some service and office uses. Eating and drinking establishments are a retail service use, and are permitted within this designation subject to the approval of a use permit. Use Permit No. 3542 was approved in 1994 to grant a change in operational characteristics of an existing restaurant use with beer and wine service only.

The purpose of the RSC-MM Zoning District is to encourage marine service businesses, visitor-serving facilities, local service retail, encourage a pedestrian orientation of the area, provide public physical and visual access to the bay, preserve and enhance the character of scenic highways and drives and city view parks in the area, and provide safe and convenient vehicular circulation and access to businesses. The overall improvements to the existing restaurant building and site based upon the project plans will provide a high aesthetic enhancement to the site benefiting the area, an area for future expansion of Coast Highway, enhanced on-site vehicular maneuvering and parking areas and an improved restaurant facility consistent with this purpose and consistent with the Mariner's Mile Strategic Vision and Design Framework.

2. *That the proposed location of the use permit and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan and the purpose of the district in which the site is located; will not be detrimental to the public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to the properties or improvements in the vicinity or to the general welfare of the city.*

The project site is consistent with the General Commercial land use designation (CG, 0.3FAR) of the General Plan, which is intended to provide for a wide variety of commercial activities, including restaurants, oriented primarily to serve citywide or regional needs. With the proposed addition of 157 gross square feet, the floor area ratio of the project site would be approximately 0.22 FAR, and would not exceed the allowable 0.3 FAR of the site. The proposed project is also consistent with the purpose of the RSC-MM Zoning District as indicated above.

The proposed alteration of the floor plan and addition of 157 square feet to the existing restaurant building is substantially consistent with the floor plan of the former restaurant with the dining area at the south side of the building, and kitchen and service area at the north side of the building.

The proposed retaining wall in an existing slope area at the north side of the property will provide an increase in area for vehicle maneuvering and parking.

The existing parking lot layout has been reconfigured to meet current commercial parking lot standards for efficient valet operations that were previously authorized by Use Permit No. 3542 approved by the City in 1994.

Use Permit No. 3542 allowed a total of 90 seats based on the parking requirement of 1 parking space for each 3 seats. The reconfiguration of the parking lot will result in the loss of 5 parking stalls (25 total to be provided) to facilitate efficient valet operations despite the additional maneuvering space provided in conjunction with the construction of the retaining wall. Consistent with Use Permit No. 3542, the restaurant will be limited to a maximum of 75 seats based upon the parking ratio and 25 spaces being provided within the altered parking lot layout that has been reviewed and approved by the City Traffic Engineer. The 157 square foot kitchen and service area addition does not increase parking demand based upon the Zoning Code.

Landscaping of the site will be improved to provide a 4-foot wide planter along the street frontage with hedge and palm trees, consistent with the plant species required by the Mariner's Mile Specific Plan District.

The exterior enhancements and design quality based upon the approved plans depict a high quality aesthetic character consistent with Mariner's Mile Strategic Vision and Design Framework.

The proposed use is not a bar or night club, will not provide dancing or live entertainment, provides adequate trash enclosures and a grease interceptor. No change in the hours of operation or alcoholic beverage license type is proposed.

3. *That the proposed use will comply with the provisions of this code, including any specific condition required for the proposed use in the district in which it would be located.*

Eating and drinking establishments are a permitted use in the RSC-MM Zoning District with an approved use permit. Use Permit No. 3542 was approved in 1994 to grant a change in operational characteristics to allow the use of valet and tandem parking in conjunction with the existing restaurant use with beer and wine service only. Chapter 20.86 provides standards for eating and drinking establishments (standards related to property line walls, landscaping and undergrounding utilities were waived by the Planning Commission when Use Permit No. 3542 was approved) and the use is consistent with these standards as conditioned.

Conditions of Approval

The following conditions of approval shall supersede the conditions of approval granted for Use Permit No. 3542 on October 20, 1994.

1. The development shall be in substantial conformance with the approved site plan, floor plan(s) and building elevations dated May 14, 2010. (Except as modified by applicable conditions of approval.)
2. The Use Permit is for the operation of a restaurant and does not authorize the use or operation of a bar, tavern, cocktail lounge, nightclub or commercial recreational entertainment venue. Alcohol service at the restaurant is limited to beer and wine service only and the operator shall maintain a valid license issued by the California Department of Alcoholic Beverage Control. The principal purpose allowed is the sale or service of food and beverages with sale and service of alcoholic beverages being incidental to the service of food.
3. The seating within the subject restaurant (including patio dining) shall be limited to 75 seats.
4. The applicant shall provide a minimum of one (1) on-site parking space for each three (3) seats within the restaurant dining and waiting areas, or a total of 25 parking spaces.
5. The hours of operation for the restaurant facility shall be limited to the hours between 11:00 a.m. and 12:00 midnight, daily. *(1994 condition carried forward)*
6. All signs shall conform to the requirements of Chapter 20.67 of the Newport Beach Municipal Code. *(1994 condition carried forward)*
7. The primary use of the proposed facility shall be the operation of a restaurant which shall provide a menu containing an assortment of food normally offered by such restaurant. Full meal service shall be provided during all hours of operation. The premises shall be furnished with tables and chairs at which food or beverages may be comfortably consumed, and the operator shall supply all necessary cutlery, condiments, and linens with which an eating establishment is customarily equipped.
8. No live entertainment or dancing shall be permitted unless an amendment to this use permit is approved by the Planning Commission. *(1994 condition carried forward)*
9. A covered wash-out area for refuse containers and kitchen equipment, with minimum useable area dimensions of 36-inches wide, 36-inches deep and 72-inches high, shall be provided, and the area shall drain directly into the sewer system, unless otherwise approved by the Building Director and Public Works Director in conjunction with the approval of an alternate drainage plan.
10. Grease interceptors shall be provided for the restaurant facility in accordance with the provisions of the California Plumbing Code, unless otherwise approved by the Building Department. *(modified 1994 condition carried forward)*

11. Kitchen exhaust fans shall be installed/maintained in accordance with the Uniform Mechanical Code. The issues with regard to the control of smoke and odor shall be directed to the South Coast Air Quality Management District.
12. All mechanical equipment and trash areas shall be screened from surrounding public streets and adjoining properties. *(1994 condition carried forward)*
13. The development standards regarding walls and underground utilities shall be waived. *(modified 1994 condition carried forward)*
14. A landscape planter no less than 4 feet in width shall be created, planted and maintained in accordance with the Mariner's Mile Specific Plan District and conceptual site plan.
15. Prior to the issuance of a building permits, the applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect. These plans shall incorporate drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the Planning Department and the General Services Department. All planting areas shall be provided with a permanent underground automatic sprinkler irrigation system of a design suitable for the type and arrangement of the plant materials selected. The irrigation system shall be adjustable based upon either a signal from a satellite or an on-site moisture-sensor. Planting areas adjacent to vehicular activity shall be protected by a continuous concrete curb or similar permanent barrier. Landscaping shall be located so as not to impede vehicular sight distance to the satisfaction of the Traffic Engineer.
16. All landscape materials and landscaped areas shall be installed and maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
17. No outdoor loudspeaker, paging system, or exterior music shall be permitted in conjunction with the proposed operation of the restaurant facility. *(modified 1994 condition carried forward)*
18. All employees shall park their vehicles on-site. *(1994 condition carried forward)*
19. The lighting in the parking area and restaurant facility shall be shielded in such a manner so as to eliminate light and glare spillage on adjacent uses and West Coast Highway. *(1994 condition carried forward)*
20. All improvements shall be constructed as required by Ordinance and the Public Works Department. *(1994 condition carried forward)*

21. All on-site valet parking, vehicular circulation and pedestrian circulation systems shall be subject to further review and approval by the City Traffic Engineer. The valet parking service shall be utilized during all hours that the restaurant facility is open to the public. *(1994 condition carried forward)*
22. The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
23. Any change in operational characteristics, hours of operation, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new Use Permit.
24. This Use Permit may be modified or revoked by the City Council or the Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
25. The operator of the facility shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons, food service operations, and mechanical equipment. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code.
26. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Planning Director, and may require an amendment to this use permit.
27. Outdoor storage shall be prohibited with the exception of trash or recycling within the required trash container enclosure.
28. Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge, including minimum drink orders or sale of drinks is prohibited.
29. All doors and windows of the entire facility shall remain closed at all times except for the ingress and egress of patrons and employees.
30. All entrances and exits to the building shall remain free of obstructions and available for ingress and egress at all times.

31. The operator shall not allow occupancy of the building to exceed the occupancy limits established by the Building or Fire Department.
32. The use of private (enclosed) "VIP" rooms or any other temporary or permanent enclosures separate from public areas are prohibited.
33. Live entertainment and dancing shall be prohibited as a part of the regular operation, unless an amendment to this use permit or other required application is first approved in accordance with the provisions of the Municipal Code.
34. *To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Pizzeria Mozza including, but not limited to, the Staff Approval SA2010-005. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.*

APPEAL PERIOD

The applicant or any interested party may appeal the decision of the Planning Director, Zoning Administrator and department staff to the Planning Commission by a written request to the Planning Director within 14 days of the action date. A \$3,070.00 filing fee shall accompany any appeal filed. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

On behalf of David Lepo, Planning Director

By: 

James Campbell, Principal Planner

Attachments: PD 1 Vicinity Map
PD 2 Site Plan, Floor (Seating) Plan and Elevations
PD 3 Use Permit No. 3542

Attachment No. PC 8

Planning Director's Approval – Outdoor
Dining Permit



PLANNING DIRECTOR ACTION LETTER

PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
(949) 644-3200 FAX (949) 644-3229

Application No. Outdoor Dining Permit No. OD2010-003 (PA2010-087)

Applicant AEDAS

Site Address 800 West Coast Highway
Pizzeria Mozza

Legal Description Lots 24 and 25, Tract No. 1210

On August 11, 2010, the Planning Director approved the following: An outdoor dining permit application for the construction of an outdoor dining area accessory to an existing eating and drinking establishment undergoing renovation. The outdoor dining area shall be limited to 202 square feet in area (or 17 percent of the 1,182-square-foot interior net public area), and is located at the northwest corner of the building adjacent to the main entrance to the restaurant. The outdoor dining area will be sheltered by a retractable canvas cover, or other canvas shade cover. The total number of seating permitted within the existing eating and drinking establishment, including the outdoor dining area, is limited to 90 seats. The property is located in the Retail and Service Commercial-Mariners Mile Overlay (RSC-MM) District. The approval is based on the following findings and subject to the following conditions.

FINDINGS

Finding:

- A. *The proposed project is in compliance with the California Environmental Quality Act (CEQA).*

Facts in Support of Finding:

- A-1. This project qualifies for an exemption from environmental review pursuant to Section 15303 (Class 3, New Construction or Conversion of Small Structures) of the Implementing Guidelines of the California Environmental Quality Act (CEQA), which exempts the expansion or conversion of existing small structures from one use to another where only minor modifications are made in the exterior structure. The project proposal involves the addition of a small outdoor dining and patio area to an existing restaurant in a location devoid of significant environmental resources.

Finding:

- B. *That the proposed outdoor dining is accessory to the Eating and Drinking Establishment.*

Facts in Support of Finding:

- B-1. The Land Use Element of the General Plan designates the property for General Commercial (CG) uses. The outdoor dining area is accessory to an existing eating and drinking establishment, and is a permitted use within the CG designation.
- B-2. Pursuant to the provisions of Chapter 20.82 of the Newport Beach Municipal Code, accessory outdoor dining areas may be established, and no additional off-street parking is required when the outdoor dining area is 25 percent or less of the interior net public area. The subject outdoor dining complies with this requirement. The interior net public area of the existing eating and drinking establishment is 1,182 square feet, which allows a maximum outdoor dining area of 295 square feet. The project has been conditioned to limit the outdoor dining area to 202 square feet or 17 percent of the net public area, and to require the boundaries of the outdoor dining area to be clearly marked so that the Code Enforcement division can easily identify the limits of the outdoor dining area.

Finding:

- C. *The establishment, maintenance or operation of the accessory outdoor dining will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood or injurious to property or improvements in the area.*

Facts in Support of Finding:

- C-1. The outdoor dining permit has been conditioned to adhere to hours of operation of 11:00 a.m. to 10:00 p.m. All activities within the outdoor dining area, including cleanup activities, shall cease at the specified closing hour. Increases in the hours of operation for the outdoor dining area shall require approval of an amendment to this application.
- C-2. The outdoor dining area is accessory to and an extension of the existing eating and drinking establishment, subject to the findings and conditions of approval of Use Permit No. 3542 and its amendments, except as limited by this approval. The outdoor dining area is accessory, and is not an independent use.
- C-3. The outdoor dining area, as conditioned, is compatible with the surrounding land uses. The limited hours of operation of the outdoor dining area would alleviate potential noise from adversely impacting the nearby residential uses. In addition, noise generating activities outside of the facility (i.e., entertainment, outdoor loudspeaker, paging system or exterior music) is prohibited, and the approval of this outdoor dining permit is subject to conditions which prohibit these uses in the outdoor dining area.

- C-4. The provision of limited and restricted hours of use is necessary to minimize noise impacts on the residential uses located to the rear of the property that overlook the establishment and across West Coast Highway. If use of the outdoor dining area results in noise complaints, the Planning Department may require the removal of all, or a portion, of the outdoor seating or choose another remedy in accordance with Conditions of Approval Nos. 16 through 22.
- C-7. The restrictions on the use of solid roof structures as applied to this approval are consistent with the intent and purpose of the accessory outdoor dining.

Finding:

- D. *That the proposed accessory outdoor dining will not be located so as to result in reduction of existing parking spaces.*

Facts in Support of Finding:

- D-1. The accessory outdoor dining is located at the front of the business and does not result in a reduction of off-street parking spaces.
- D-2. In accordance with the provisions of Chapter 20.82 of the Newport Beach Municipal Code, accessory outdoor dining requires no additional parking if it is less than 25 percent of the interior net public area.

CONDITIONS (*Project-specific conditions are in italics*)

1. *The accessory outdoor dining area shall be in substantial conformance with the approved site plan and floor plan, dated July 2, 2010, except as noted in the following conditions.*
2. *All applicable conditions of approval for Use Permit No. 3542, as reviewed and modified by the Planning Director on May 14, 2010, shall remain in full force (copy available in the Planning Department).*
3. *The accessory outdoor dining area shall be used in conjunction with the related eating and drinking establishment and shall be limited to 202 square feet in area (17 percent of the total net public area of 1,182 square feet). Seating within the existing eating and drinking establishment, including the outdoor dining area, shall be limited to a maximum of 90 seats, unless a use permit is obtained from the Planning Commission.*
4. *At such a time that the City widens West Coast Highway in this area, the applicant shall reconfigure the main entry doorway to the eating and drinking establishment to eliminate the door swing within the future public right-of-way. Alterations shall be made at the sole cost and expense of the applicant.*

16. *No amplified music or entertainment is permitted in the accessory outdoor dining area.*
17. *No dancing or live entertainment shall be allowed on the premises.*
18. The operator of the eating and drinking establishment shall be responsible for the control of noise generated by the patrons of the subject facility. The use of outside loudspeakers, paging system or sound system shall be prohibited in the outdoor dining area or outside of the building. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code. Chapter 10.26 provides, in part, that the should shall be limited to no more than depicted below for the specified time periods:

	Between the hours of 7:00 a.m. and 10:00 p.m.		Between the hours of 10:00 p.m. and 7:00 a.m.	
	<u>interior</u>	<u>exterior</u>	<u>interior</u>	<u>exterior</u>
Measured at the property line of commercially zoned property:	N/A	65 dBA	N/A	60 dBA
Measured at the property line of residentially zoned property:	N/A	60 dBA	N/A	50 dBA
Residential property:	45 dBA	55 dBA	40 dBA	50 dBA

19. The applicant shall retain a qualified engineer specializing in noise/acoustics to monitor the sound generated by the outdoor dining activity to insure compliance with these conditions, if required by the Planning Director.
20. *Should problems arise with regarding noise associated with the accessory outdoor dining area, the Planning Department shall require the removal of all or a portion of the outdoor dining area, and/or seating in the areas that contribute or cumulatively contribute to the noise problems or complaints. The Planning Director may also curtail or reduce hours of operation and use of the outdoor dining area in response to noise complaints or loud and unreasonable noise generated by the outdoor dining use.*
21. *The use of area heaters shall be approved by the Public Works Department, Building Department and the Fire Department prior to installation or use. The use of propane heaters and the storage of propane containers on the premises are prohibited, unless otherwise approved by the Fire Department.*
22. Should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current owner or the leasing company.
23. The Planning Department may add to or modify conditions of approval to this outdoor dining permit, or revoke this approval upon a finding of failure to comply with the conditions set forth in Chapter 20.82 of the Municipal Code or other

applicable conditions and regulations governing the food establishment. The Planning Director or the Planning Commission may also revoke this permit upon a determination that the operation which is the subject of this approval causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.

24. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Pizzeria Mozza including, but not limited to, the Accessory Outdoor Dining Permit OD2010-003. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.
25. This approval shall expire unless exercised within 24 months from the end of the appeal period as specified in Section 20.91.050 of the Newport Beach Municipal Code.

APPEAL PERIOD

The applicant or any interested party may appeal the decision of the Planning Director, Zoning Administrator and department staff to the Planning Commission by a written request to the Planning Director within 14 days of the action date. A \$4,280.00 filing fee shall accompany any appeal filed. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

On behalf of David Lepo, Planning Director

By: JW Campbell
James Campbell, Principal Planner

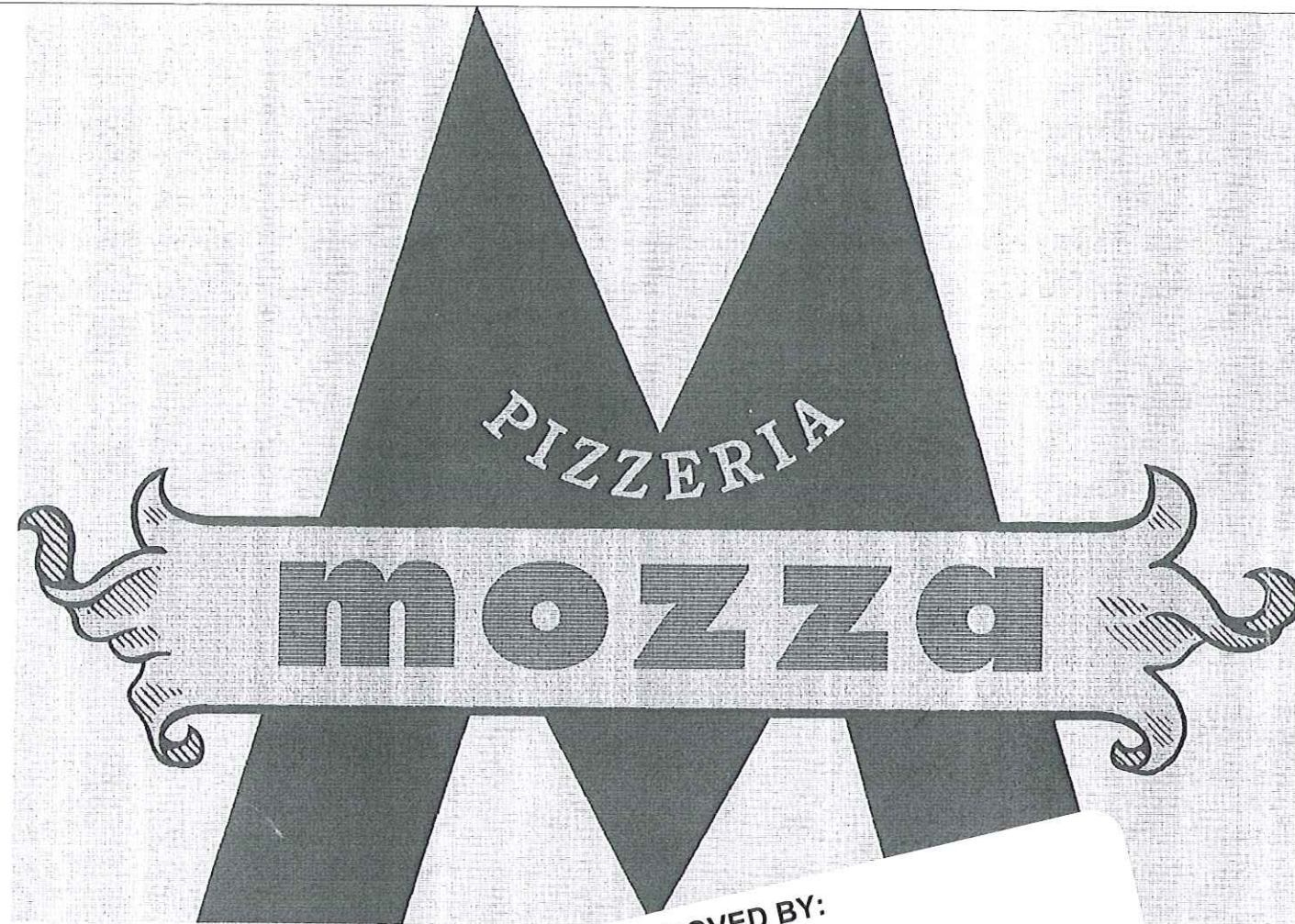
JWC/jjb

Attachments:

- PD 1 Vicinity Map
- PD 2 Site Plan and Seating Plan
- PD 3 Letters Received

Attachment No. PC 9

Plans



800 WEST COAST HIGHWAY
NEWPORT BEACH, CA



APPROVED BY:

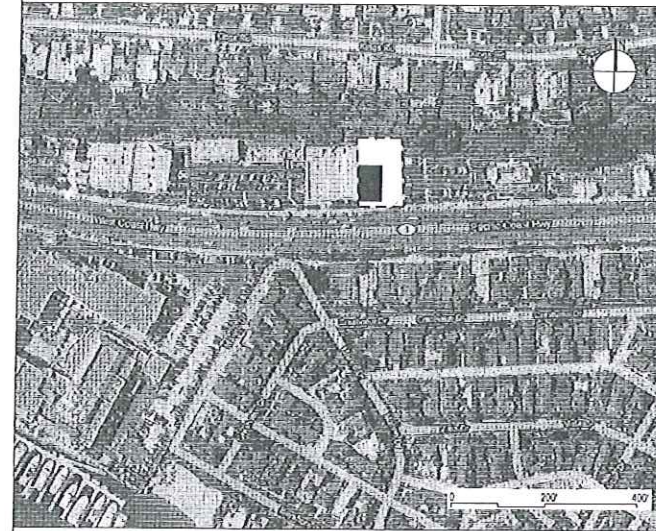
☐ Planning Director
☐ Planning Commission
☐ As Submitted
☐ Resolution
Refer to:
of Pgs Approved: _____

☐ Zoning Administrator
☐ City Council
☐ As Modified
☐ Approval Letter
Date: / /

CONSTRUCTION DOCUMENTS

FEBRUARY 23, 2011

VICINITY MAP



PROJECT INFORMATION

ADDRESS: 800 WEST COAST HIGHWAY
NEWPORT BEACH, CALIFORNIA 92663

BUSINESS OWNER: OCCIO ROSSO, LLC

BUILDING OWNER: 800 PACIFIC COAST HIGHWAY, LLC
SEAN MANAVI

BUILDING JURISDICTION: CITY OF NEWPORT BEACH

BUILDING USE: RESTAURANT WITH ON-SALE BEER AND WINE

LOT NO.: 24 & 25

PARCEL NO.: 35, 36

TRACT NO.: 1213

LEGAL DESCRIPTION: REAL PROPERTY IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:
LOTS 24 AND 25 OF TRACT 1213, AS SHOWN ON A MAP RECORDED IN BOOK 43, PAGE 45 AND 46 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA.
EXCEPTING THEREFROM, ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS, NATURAL GAS RIGHTS, AND OTHER HYDROCARBONS BY WHATEVER NAME KNOWN THAT MAY BE WITHIN OR UNDER THE LAND HEREIN ABOVE DESCRIBED, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORE AND OPERATING THEREFOR, AND STOPPING IN AND REMOVING THE SAME FROM SAID LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHISTOCK OR DIRECTIONALLY DRILL OR MINE FROM LANDS OTHER THAN THOSE HEREIN ABOVE DESCRIBED, OIL OR GAS WELLS, TUNNELS AND SHAFTS, INTO, THROUGH OR ACROSS THE SURFACE OF THE LAND HEREIN ABOVE DESCRIBED, AND TO BOTTOM SUCH WHISTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDELL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES, WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SURFACE OF THE LAND HEREIN ABOVE DESCRIBED, AS RESERVED IN THE DEED FROM THE TUNE COMPANY, A CORPORATION, RECORDED JUNE 2, 1969 IN BOOK 8974, PAGE 265 OF OFFICIAL RECORDS, EXCEPTING THEREFROM ALL WATER RIGHTS, CLAIMS OR TITLE TO WATER, WHETHER OR NOT SHOWN BY THE PUBLIC RECORDS.
APN: 049-280-35 AND 049-280-36

OCCUPANCY GROUP: A-2, B, S-2 (non-separated)

ACCEPTABLE BUILDING CODE: 2007 CALIFORNIA BUILDING, PLUMBING, MECHANICAL, ELECTRICAL & ENERGY CODES

CONSTRUCTION TYPE: Type V - B (fully sprinklered)

DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE: MICHAEL SEDLACEK, ARCHITECT

DEFERRED PERMITS

1) FIRE SPRINKLER SYSTEM
2) EXTERIOR SIGNAGE
3) RETAINING WALL

SPECIAL INSPECTIONS

FOR PROJECT SPECIFICATION OF SPECIAL INSPECTIONS AND TESTING REQUIREMENTS, SEE S1_102

PROJECT DESCRIPTION

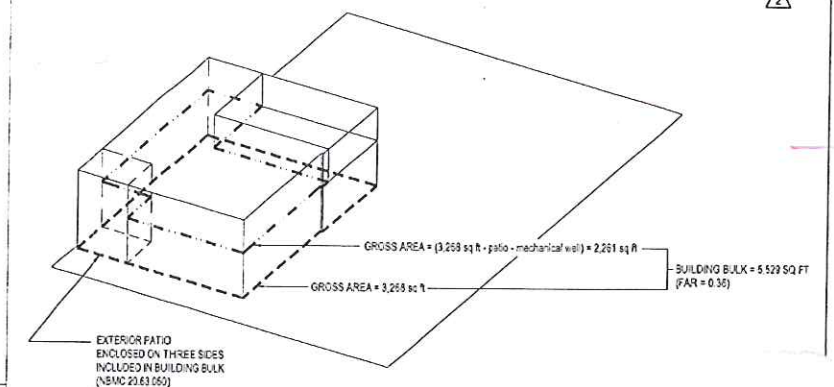
The Project consists on the demolition of the existing restaurant building (3,145 sq. ft.) and the construction of a new commercial building also to be used as restaurant (3,395 sq. ft.). Work also includes the rework of the site (see civil drawings). The construction of a new retaining wall at the North side of the property is under a separate permit.

The Project site is located on the North side of the West Coast Highway in Newport Beach at the number 800. The newly leased site used to be the location of Dolce Restaurant since 1994 and has been a restaurant location since 1950s. Planning Approval has been obtained (Permit # PA2010-058) based on the existing Use Permit. Planning approval for accessory outdoor dining permit (Permit # OD2010-003(PA2010-087)) has also been obtained.

PLANNING AND ZONING

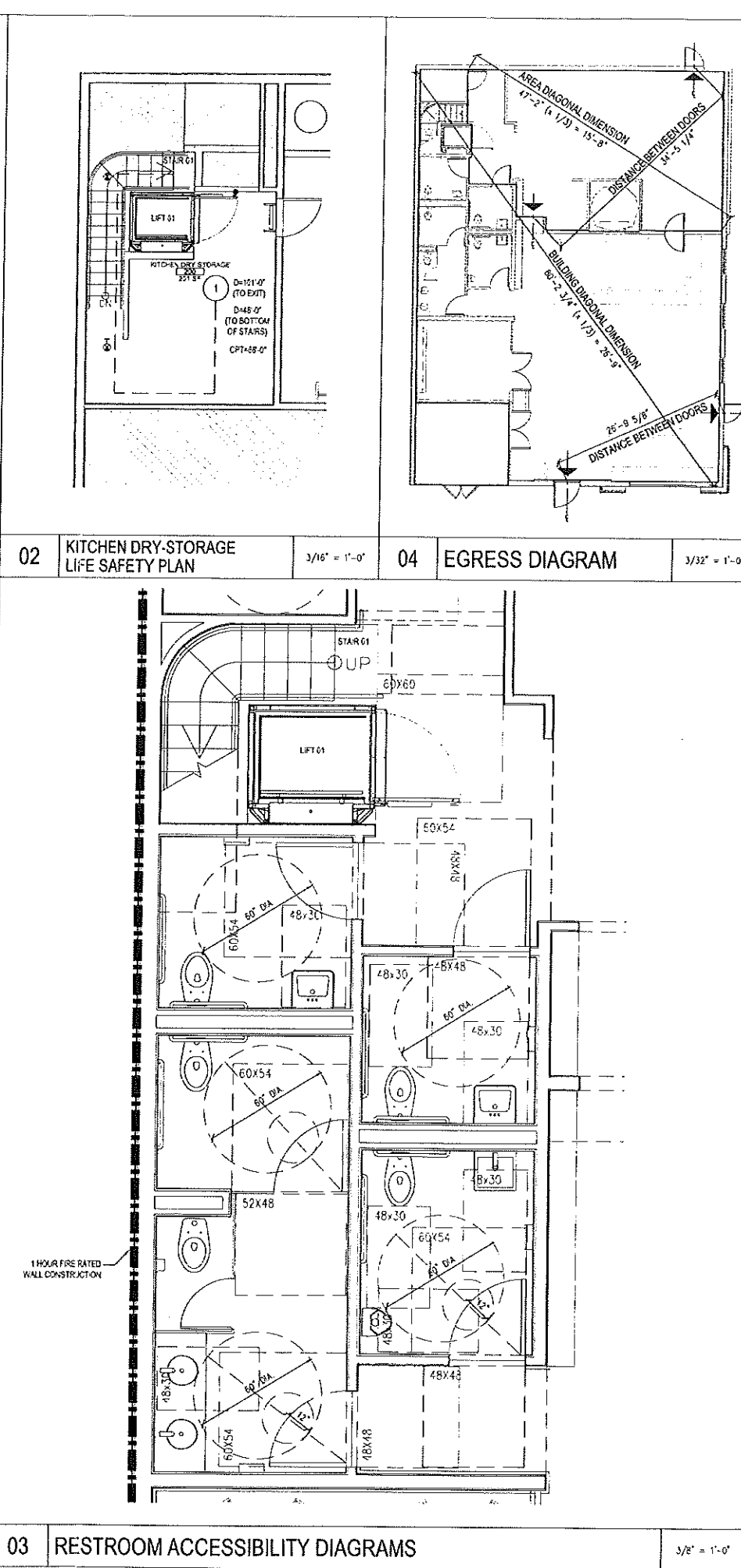
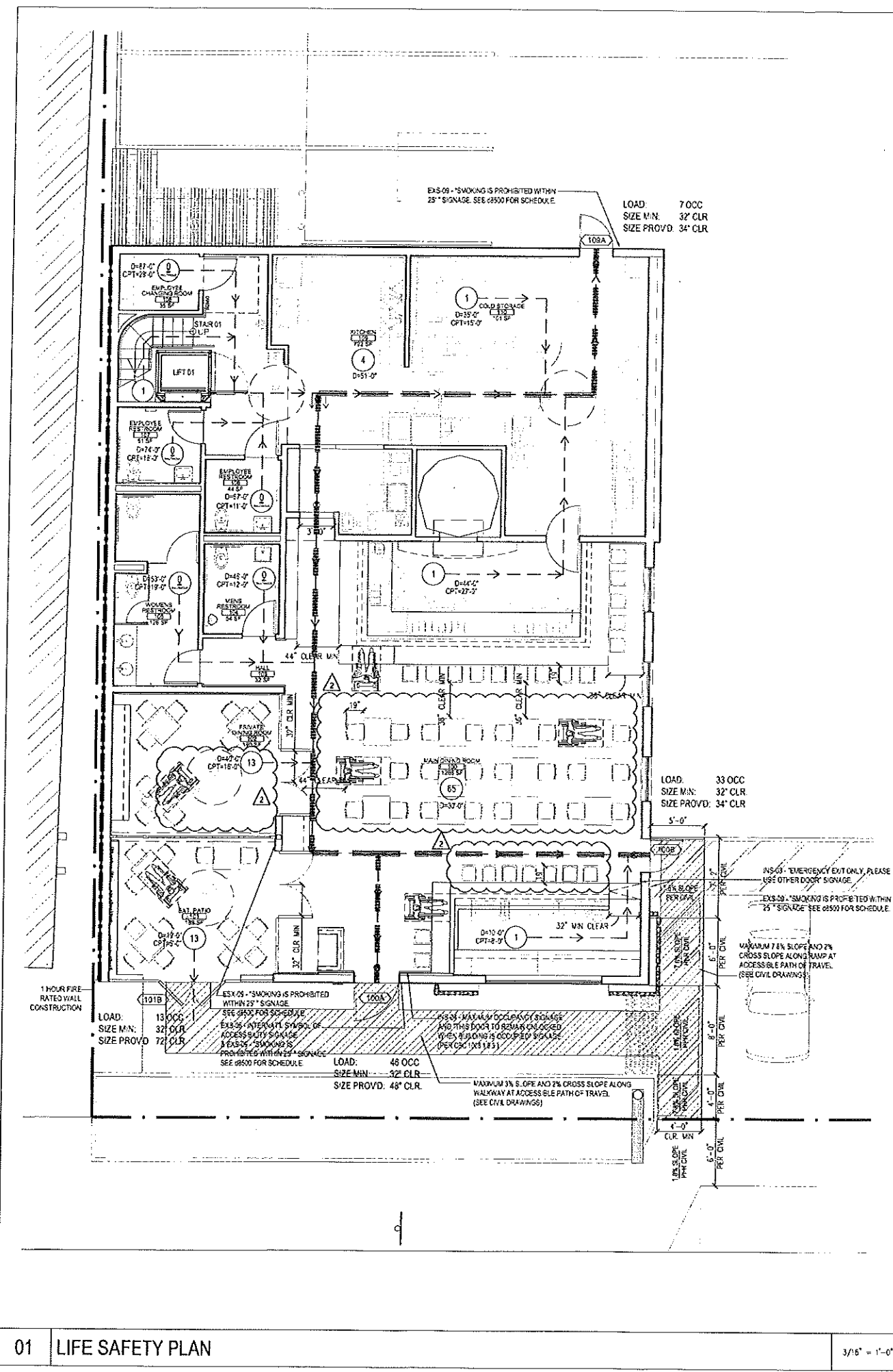
USE PERMIT NO. 5542
OUTDOOR DINING PERMIT NO. 002010-003 (PA2010-087)

ZONING:	RSC-VIM		
PARCEL SIZE:	15,041 SF	15,232 PER GIS RECORDS	
BUILDING HEIGHT:	24'-9" A.F.F.	29'-0" MAX. HEIGHT ALLOWABLE	
	EXISTING	PROPOSED	ALLOWED
FLOOR AREA RATIO (FAR):	0.2	0.2	0.3
BUILDING BULK:		5,529 (see diagram below)	
NO. STORIES:	1	1 PLUS MEZZANINE	
GROSS AREA:			4,569 (15,232 X 0.3) ALLOWED BY FAR
FIRST FLOOR:		3,194	
MEZZANINE FLOOR:		221	
TOTAL:	3,145	3,395 (3,145 + 250 = 3,395)	3,395 (allowed by Planning Department)
NET PUBLIC AREA:		1,058	1,132 (allowed by the use permit)
OUTDOOR DINING AREA:		190	202 (allowed by the use permit)
PARKING SPACES:	50	20 (based on 1 space for every 3 seats)	
NO. SEATS:	90	74	75 60 (indoor) + 15 (allowed by accessory outdoor dining permit)



* ALL AREA CALCULATIONS PER MEETING ON JANUARY 14, 2011 AND SUBSEQUENT CORRESPONDENCE AND MEETING MINUTES.

Aedas



LIFE SAFETY LEGEND

1 HR. RATED SEPARATION
TRAVEL DISTANCE (D = MAX DISTANCE TO EXIT)
(CPT = COMMON PATH OF TRAVEL)
ACCESSIBLE PATH OF TRAVEL
EXIT SIGN - CEILING MOUNTED
EXIT SIGN - WALL MOUNTED
EXIT

OCCUPANCY CLASSIFICATION DIAGRAM

CONSTRUCTION TYPE & RISK
SEPARATED OCCUPANCY REF. SEC. SECTION 503.1

A-2 (ASSEMBLY)
B (BUSINESS)
S-2 (STORAGE)

OCCUPANT LOAD CALCULATION

ASSEMBLY USE

Rm#	Name	Sqft.	Group	Load
100	MAIN DINING ROOM	968	A-2	65
101	PATIO	126	A-2	13
102	PRIVATE DINING ROOM	126	A-2	13
100	PIZZA BAR	122	A-2	1
100	WINE BAR	122	A-2	1
TOTAL AREA		1360		
OCCUPANT LOAD FACTOR		13 NET UNOCCUPIED MINIMUM WITH TABLE 503.1		
TOTAL OCCUPANCY		93		

BUSINESS

Rm#	Name	Sqft.	Group	Load
109	KITCHEN	115	B	4
TOTAL AREA		115		
OCCUPANT LOAD FACTOR		220 GROSS KITCHEN COMMERCE		
TOTAL OCCUPANCY		4		

STORAGE

Rm#	Name	Sqft.	Group	Load
113	COLD STORAGE	58	S-2	1
200	DRY STORAGE	231	S-2	1
TOTAL AREA		289		
OCCUPANT LOAD FACTOR		330 GROSS ACCESSORY STORAGE AREAS		
TOTAL OCCUPANCY		2		

BATHROOMS

Rm#	Name	Sqft.	Group	Load
103	HALL	32	B	0
104	RESTROOM	65	B	0
105	RESTROOM	125	B	0
106	EMPLOYEE RESTROOM	44	B	0
107	EMPLOYEE RESTROOM	51	B	0
108	EMPLOYEE CHANGING ROOM	36	B	0
TOTAL AREA		344		
OCCUPANT LOAD FACTOR		577 NET RESTROOMS MINIMUM		
TOTAL OCCUPANCY		0		

EGRESS WIDTH CALCULATION

REQUIRED WIDTH
(TOTAL OCCUPANCY) X (EGRESS WIDTH FACTOR)
93 X 0.15" = 13.95" (SEE 507 DOORS) = 64" REQUIRED PER CBC 101.1
REQUIRED EXITS FROM SEATING = 2
REQUIRED EXITS FROM KITCHEN = 2
EGRESS DOORS PROVIDED
2 DOORS @ 32" = 64" + 1 DOOR @ 44" = 108" PROVIDED
BUILDING CODE ALLOWABLE AREA ANALYSIS

GROUP	AREAS (SQFT)	ALLOWABLE AREA (SQFT) PROVIDED
A-2	1360	5500 + 2 = 11000
B	115	9000 + 2 = 18000
S-2	289	13500 + 2 = 27000

ALLOWABLE HEIGHT ANALYSIS

PER CBC CHAPTER 5, TABLE 503, OCCUPANCY GROUP A-2
MAXIMUM HEIGHT = 42' MAXIMUM STORES = 1

MAX EXIT TRAVEL DISTANCE

GROUP	DISTANCE (FEET)	OCC. LOAD	MIN. # OF EXITS
A-2	250	1550	2
B	300	MINIMUM 2 EXITS (300-45)	
S-2	400		

CBC TABLE 1016.1

GROUP	W.C.	URINAL	LAV.	W.C.	LAV.
PUBLIC USE	1	1	1	2	1
ASSEMBLY	1	1	1	2	1
KITCHEN	1	1	1	2	1
TOTAL	2	1	2	3	2

PLUMBING FIXTURE CALCULATION

FIRE SEPARATION DISTANCES

ELEVATION	FSD	% UNPROTECTED OPENINGS	FIRE RATING
NORTH	28'-0"	UNLIMITED	NONE
EAST	28'-0"	UNLIMITED	NONE
SOUTH	28'-0"	UNLIMITED	NONE
WEST	28'-0"	UNLIMITED	NONE

NOTES

1) EGRESS DOORS SHALL BE KEYS OPERABLE FROM THE EGRESS SIDE WITHOUT THE USE OF A KEY OR ANY SPECIAL KNOWLEDGE OR EFFORT. CBC 1010.1.1

2) THE VIEWS OF EGRESS TRAVEL SHALL BE ILLUMINATED AT ANY TIME THE BUILDING IS OCCUPIED WITH A LIGHT INTENSITY OF NOT LESS THAN 1 FOOT CANDLE AT THE WALKING SURFACE LEVEL. CBC 1010.2

3) THE POWER SUPPLY FOR MEANS OF EGRESS ILLUMINATION SHALL NORMALLY BE PROVIDED BY THE PREMISES ELECTRICAL SUPPLY. IN THE EVENT OF POWER SUPPLY FAILURE, THE EMERGENCY POWER SUPPLY FAILURE, THE EMERGENCY POWER SYSTEM SHALL PROVIDE POWER FOR A DURATION OF NOT LESS THAN 90 MINUTES AND SHALL CONSIST OF STORAGE BATTERIES, UNIT EQUIPMENT OR AN ON-SITE GENERATOR. (CBC 1010.3.3)

4) PORTABLE FIRE EXTINGUISHERS SHALL BE INSTALLED IN LOCATIONS AS REQUIRED BY FIRE CODES.

5) DUMPSTERS AND CONTAINERS WITH AN INDIVIDUAL CAPACITY OF 15 GALLONS (60 L) OR MORE SHALL NOT BE STORED IN BUILDINGS OR PLACED WITHIN 5 FEET OF COMBUSTIBLE WALLS, OPENINGS OR COMBUSTIBLE ROOF EAVES, UNLESS AREAS CONTAINING DUMPSTERS OR CONTAINERS ARE PROTECTED BY AN APPROVED AUTOMATIC FIRE SUPPRESSION SYSTEM. FIRE CODE 104.1.1

6) MATERIALS STORED IN 502 TO COMPLY WITH SECTION 503.1

7) THE MINIMUM WIDTH OF EACH DOOR OPENING SHALL BE SUFFICIENT FOR THE OCCUPANT LOAD THEREOF AND SHALL BE CLEAR WIDTH OF NOT LESS THAN 36 INCHES. THE HEIGHT OF DOORS SHALL NOT BE LESS THAN 80 INCHES. CBC 1010.1.1

8) EXISTING DOORS SHALL NOT BE SUBJECT TO LOCKING DURING OPERATING HOURS. (CBC 1010.2.2)

9) CONTRACTOR TO PROVIDE SIGNAGE WITH THE INTERNATIONAL ACCESSIBILITY SYMBOL AT EACH NON-ACCESSIBLE ENTRANCE OR PATH OF TRAVEL INDICATING CORRECTION TO ACCESSIBLE PATH OF TRAVEL OR ENTRANCES. (IBC 117B.5.5.1 & 117B.5.1.2)

10) MEZZANINE TO COMPLY WITH CBC SECTION 503.1.1 AND 104.1.1

11) DOORS REFER TO 2007 CALIFORNIA BUILDING CODE WITH AMENDMENTS BY THE CITY OF NEWPORT BEACH.

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CONSTRUCTION DOCUMENT SET

Rev.	Issue	Date	Draw	Check	App
1	BID SET - REV 1	01/25/2011			
2	BID SET	05/24/2010			
3	DO SET	07/02/2010			
4	SO SET	06/18/2010			

Key Plan

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Drawing
ENLARGED PLAN
CODE COMPLIANCE DIAGRAM

Computer File

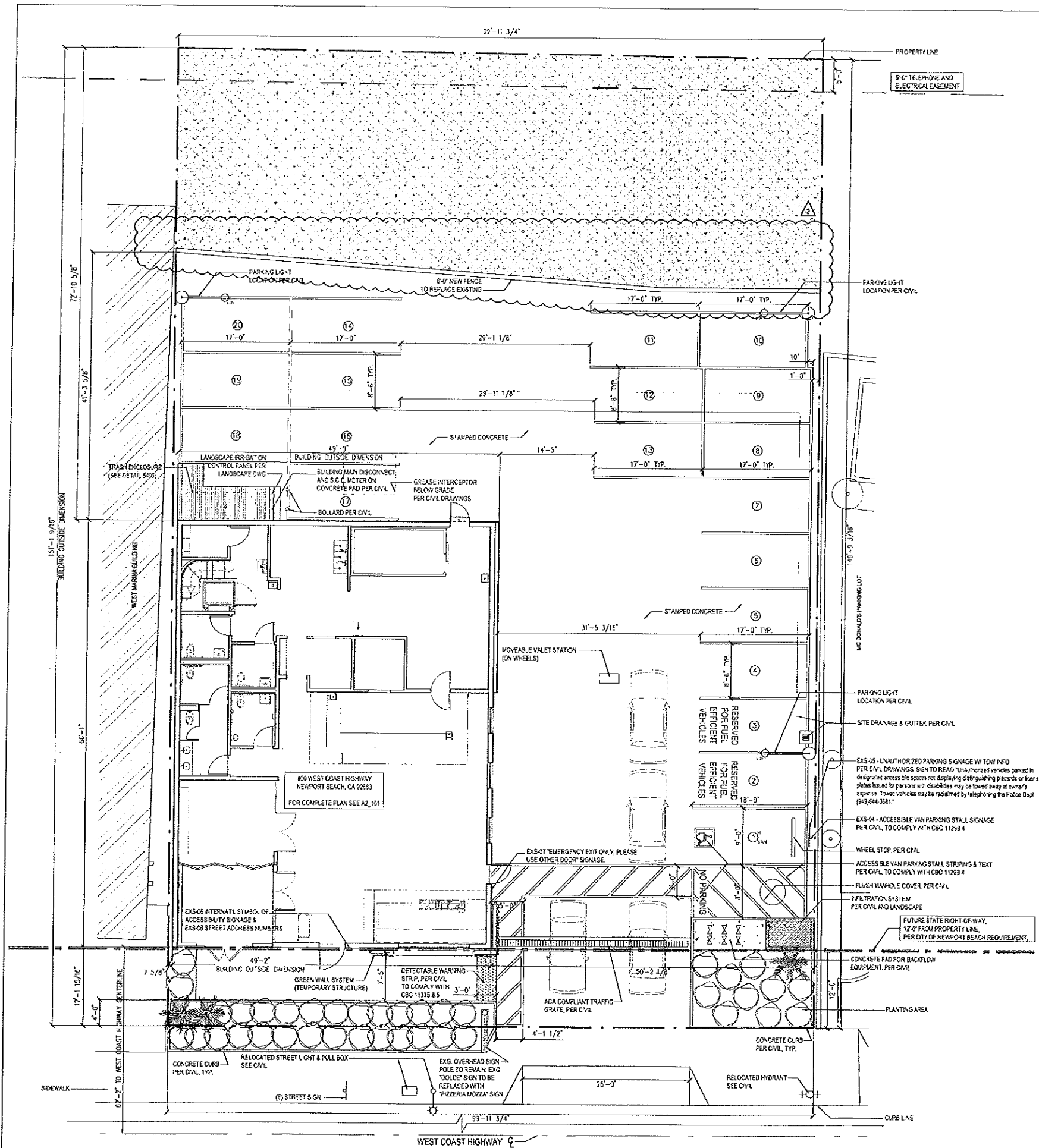
Date
02/23/2011

Project Number
1002

Scale
1/4" = 1'-0"

Drawing Number
LS1_101

This drawing is to be used in conjunction with all related drawings and shall not be used in isolation. Any errors or omissions shall be the responsibility of the architect. The architect shall not be responsible for any errors or omissions in the drawings or the construction documents. The drawings are the property of Aedas, L.L.P.



SHEET NOTES

- 01) LANDSCAPING ALONG PACIFIC COAST HIGHWAY SHALL COMPLY WITH CITY SIGHT DISTANCE STANDARD 110, AND SHALL BE MAINTAINED AT 24" MAX. AT ALL TIMES. SEE CIVIL AND LANDSCAPE DRAWINGS FOR SIGHT DISTANCE STANDARD COMPLIANCE.
- 02) PARKING SURFACE SHALL BE COLORED STAMPED CONCRETE TO MATCH EXISTING (TO BE REMOVED) INCLUDING PARKING DEMARCATION.
- 03) FIRE WATER SUPPLY AND BUILDING FIRE SUPPRESSION SYSTEM TO BE DESIGN BUILD. SPRINKLER RISER FDC AND BACKFLOW PREVENTER LOCATIONS TO BE REVIEWED AND APPROVED BY ARCHITECT.
- 04) TRASH ENCLOSURE TO BE DESIGN BUILD PER ARCHITECT'S DESIGN INTENT.
- 05) GC TO PROVIDE A DETECTABLE WARNING PRODUCT SAUPLA TO THE BUILDING INSPECTOR FOR APPROVAL OF COLOR CONTRAST WITH FINISH SURFACE.
- 06) WHEN SIGNS IDENTIFY PERMANENT ROOMS AND SPACES OF A BUILDING OR SITE, THEY SHALL COMPLY WITH CBC 1117B.5.2, 1117B.5.3, & 1117B.5.5-7.
- 07) ELECTRICAL FEEDER FROM S.C.E. POLE TO REMAIN OVERHEAD. GC TO PROVIDE STUB UP FOR FUTURE UNDERGROUND FEEDER. STUB UP SHALL BE PROVIDED BELOW BUILDING MAIN DISCONNECT AND S.C.E. METER, THROUGH CONCRETE PAD, LOCATED AT THE BACK OF THE BUILDING IN PARKING AREA.

SITE PLAN LEGEND

- PROPERTY LINE
- EXISTING PARKING DEMARCATION BOUNDARY (DEVO SITE PLAN ONLY)
- NUMBER OF PARKING STALLS
- NUMBER OF HAND CAP PARKING STALLS
- EXISTING CONSTRUCTION TO BE DEMOLISHED (DEMO SITE PLAN ONLY)
- EXISTING SITE (SEE CIVIL DRAWINGS) (DEMO SITE PLAN ONLY)
- HILL SIDE
- PUBLIC SIDEWALK (SEE CIVIL DRAWINGS) (DEMO SITE PLAN ONLY)
- MEXICAN FAN PALM
- PALM TREE TO BE REMOVED (DEMO SITE PLAN ONLY)
- EXISTING STREET LIGHTING
- VERTICAL ARM MOUNT LIGHTING FIXTURES

Drawing Type

Credits

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Rev	Issue	Issue Date	Initial
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2	BID SET - REV 1	01/25/2011	
3	BID SET	06/24/2010	
4	DD SET	07/29/2010	
5	SD SET	06/15/2010	

Original by	Date	Draw	Check	App.

Key Plan



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Drawing

SITE PLAN

Computer File

Date

02/23/2011

Project Number

1002

Scale

1/8" = 1'-0"

Drawing Number

A1_101

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Burns, Marlene

PA2011-139

From: Ann A. Crane [aacrane@meyerhofs.com]
Sent: Monday, October 17, 2011 11:34 AM
To: Burns, Marlene
Subject: Pizzeria Mozza

I do not support overturning the Planning Commission's decision to limit Pizzeria Mozza to a beer and wine license. It truly is a full service restaurant, albeit with a pizza theme, and full bar service fits in well. Let the restaurant serve responsibly, train employees to recognize over-drinkers and cut them off. Train their valet and wait staff to use courtesy and calm to keep noises down outside. And let the restaurant thrive! As it does, it pays more money into the City of NB coffers. And in this day and age, that's more important than the few pissy homeowner/residents on the bluff above who want to eat at PM, but not hear it later.

Ann Crane
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